A collection

App. F. IX-4 **1936.** **File No. 7-36**

Previous References (Legis) **Serial Nos. 1**

Legis 49-37 (1-4) A collection.

Later References
·5-44-142

PRESERVED

GENERAL AND REVENUE SECRETARIAT

Serial Nos. A proceeding Manuscript

~~Part B~~ for July 1936

SUBJECT.

Regulations to amend the Workmen Compensation Regulations.

Govt Copy

Govt order 846 dt 31-7-36 on publication of the Regns to amend the Workmen Compensation Regns. as Regn. III of 1936

10/9/36

Introduction of legislation on the lines of the Workmens Compensation Act

P. R
D2C113-35

General and Revenue Secretariat

D2C186-37

File No. 7 of 193 6

[App. F. III—2

Serial No.

As directed by Sir, I have scrutinised the draft Bill (Workmens Compensation Regulation Amendment) All the changes in the Amending Acts in British India to the extent they are suitable for Ryot have been embodied. As there were many Corrections, a fresh typed draft is put up.

2) Statement of general principles may be prepared & sent after approval by Govt: in due time for being sent with the R.A. agenda.

A.S. Dec 36)

Cl. 12/9/

Mr Ramadasan

D2C3/

1

will be put by file after approval

3) Draft is submitted, as directed in para

hm 15/7/35

⊗

4) D.N is put up for consideration

⊗ See Govt. Secretary's letter dated 15/7/35

5) Submitted with fair draft

hm 17/9

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

V
2

77 1582/35

File No. of 193 General and Revenue Secretariat

6) (1) Draft Bill to amend the Workmens Compensation Regs. for approval
(2) A statement of General Principles of new Bill is also for sup, and a [illegible] as directed

1162
9-9-35

OFFICE OF THE FIRST MINISTER
20 SEPT. 1935
No. 2298

Dewan
Finance
W.T.
20/9

8) Bill may be approved of & the general principles placed before the H.C. at the next session.
(Re: the widening terms of miners phthisis as an occupation disease, the K.S.T. authorities may be consulted [illegible] & expressing an opinion, before this is placed before the H.C.)

by
20/9

Dewan

Council meeting

9) Mr
29-9-35

by
29.9.35

DEPUTY MINISTER'S OFFICE
LABOUR DEPARTMENT
30 SEPT. 1935
No. 2643

Clerk Secy

3

For Disposal by Circulation

No. C. 7/2/

8 1935

GENERAL AND REVENUE SECRETARIAT

Council Matter

Subject

(6) Draft Bill to amend the Mysore Workmen's Compensation Regulation.

(11) *Circulated to the Members of Council*

By Order,

24th September 1935.

Chief Secretary to Government.

First Member of Council (12) (Seen)

1904 / 24.9.35 Second Member of Council

24/9

(14) For favour of final note,

2397 / 24/9 First Member.

(15) F. N. Signed by Member. 24/9

S. N. Pillai

Dewan)

25/9/35

(16) 25-9-35

25/9

Submitted to His Highness.

I submit herewith a Final Note by the **First** *Member of Council* **regarding Amendment of the Workmen's Compensation Regulation of 1928** *for His Highness' gracious approval.*

Mirja M. Ismail
Dewan.
25-9-35

Final Note by the First Member of Council.

5

Subject:—

Amendment of the Workmen's Compensation Regulation of

With the gracious approval of His Highness a bill to for the payment by certain classes of employers to their wor of compensation for injuries or accidents was passed into la Workmen's Compensation Regulation XIV of 1928 in September 1 The Regulation was based on the British Indian Workmen's Com tion Act of 1923. Three amending Acts have been enacted in India since, in 1926, 1929 and 1933 respectively.

The Workmen's Compensation Act of 1923 was experiment character and the amendments introduced in 1926 and 1929 wer signed to remedy admitted defects and to embody improvements non-controversial character. Subsequently, the Royal Commis on Labour reviewed the entire position in the light of furth evidence supplied to them and made a number of recommendatio the subject. The Government of India in following these rec dations closely, have passed the amending act of 1933 embody large number of suggestions contained in the Report of the R Commission.

The changes in the law relating to Workmen's Compensa enacted in British India are found to be suitable to the con in Mysore. As the time has come for the amendment of our Re tion to bring it into conformity with the law on the subject British India, it is proposed to bring the subject before t presentative Assembly at its ensuing session in October 1935 to introduce an amending bill on the lines of the three Indi mentioned above in the Legislative Council at its meeting in cember 1935.

solicit the gracious approval of His Highness to the abo proposal which is agreed to by the Dewan and the Secon Council.

MEMBER OF COUNCIL.

General and Revenue
Secretariat

C77

SUBJECT:- Amendment of workmen's compensation Regulation of 1928

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders.* (*Vide Rules* 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

..... Department.

FIRST MEMBER OF COUNCIL.

SECOND MEMBER OF COUNCIL.

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Head-quarters and then sent to the Secretariat concerned for the issue of orders.

NOTE.—Contn. sheet.

7

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Amendment of the Workmen's Compensation Regulation of 1928.

152

Order.

~~KRW~~

27/9/35

2663/35 Amendment of the Workmen's Compensation Act

C 77

D 621

General and Revenue Secretariat | File No. 7 of 193 6. | [App. F. III—2

Serial No.

Proof of Statement of General Principles of Bill to amend the Workmen's Compensation Regn has been compared with the original & the file is returned herewith to the Development Branch.

PRW. 30-9-35

GENERAL SECRETARIAT 1.10.35 DEVELOPMENT BRANCH

Subs for perusal.

1/10/35

Please consult Protocol Branch for further action in the

1.10.

Brief for Dy. Assembly debate

Mos 4 & 5

To Protocol 10-C

31/10

The Bill has been published already and copies given to the Members as the S.A. The Statement of ~~Objects and Reasons~~ of General Principles has been slightly revised so as make the same the Statement of Objects & Reasons and the notes on Clauses has been added to. Of this an

NOTE.—Contn. Sheet.

WD 03594—GPB—30,000—18-7-35

2663

Bill to amend Workmens Compensation Regulation

File No. (No 2) of 193 .

General and Revenue Secretariat

DEWAN'S OFFICE
12 NOV. 1935
No. 2995

approved and it is decided to publish the Bill under Rule 8 of the Rules of Business of the Council introduced in the ensuing session of the Legislature may be sent to the L.C Office for publication

Sd

Done 4/11

The Bill will be published under Rule 8

3606 9/11

2nd Member) 6/11/35

Nil

Dewan) 12/11/35

6/12/11/35

Mr 12-11-35

Publish 6 13/11

Extra copies of Bill & Statement are placed in file. These will be sent to L.C Office after approval

3 copies of the Bill taken and the file put to Prot. B with Compts

16/11/35

Done 15/11

6 15/11

663

Bill to amend Workmen's Compensation Regulations

General and Revenue Secretariat | File No. | of 193 . D.1020. [App. F. III—2

Serial No.

The Bill was published in the Gazette of 28. 11. 1935 and a copy is herewith submitted for perusal.

The following motions are also suggested for inclusion in the agenda for the meeting of the Legislative Council:-

(1) Motion that the Bill be dealt with under rule 8 of the Rules of Business be read in Council

(2) Motion that the Bill be referred to a Select Committee.

Mover: The Second Member

Seconder: The Development Secretary

The personnel of the Committee is also for orders.

Submitted

Dev Sec 2/12

(Development Secretary) 2nd Member)

Agreed 3.12.35

OFFICE OF THE SECOND MEMBER OF COUNCIL. 3 DEC. 1935 NO. 4294

This may be dealt with at the meeting of the L.C. on

MM 4/12/35

OFFICE OF THE SECRETARIAT 5 DEC. 1935 REPRESENTATIVE

2nd 3/12

L.C. agenda for note)

4/12/35 - noted and put to the Prot. Bx.

4/12/35

NOTE.—Cancel Sheet [illegible]

WD 03594—GPB—30,000—18-7-35

L.C. Secy

1921 2663

Bill to amend the Workmens Compensation Act

4713/1925

File No. P D. 1020. of 193 General and Revenue Secretariat

The Bill was read in Council at the meeting held on 17.12.36 and referred to a Select Committee the personnel being there in the list Flag A

The file will be sent to L.C. Office for publishing of a copy of the proceedings pertaining to this Bill

Done
20/12 L.C. Office

Ex of copy of the discussion on the Bill in the L.C. is placed in the file

Done
6.1.36 Protn Branch

6/1/36

Submd. for orders as regards the date of the meeting

6/1 Hqrs. put up about The end of the month

6

Submd. Member has rendered that the meeting may be held on Wednesday the 4th.

Draft notice Submd. Submd.

18/2 Notice in draft to Dr & Workers also

OFFICE OF THE SECRETARY
4 JAN. 1937
REPRESENTATIVE ... LY AND LEGISLATIVE COUNCIL.

Gen B/31-1-37

17 - 1. 1937

Issued vide S 707-14 2 6 19/2
S 715 09 27/2

D.O. 1812

12

Lc/25/3/36

£446 P 835

THE BANGALORE PRINTING & PUBLISHING CO.,
'LAKE VIEW', MYSORE ROAD

BANGALORE CITY, 29th February

Dear Mr. Subramanya Iyer.

Re: Official Memorandum No. P 5707-14 dated 27th instant intimating that the Select Committee meeting to - consider the Bill to amend the Workmen's Compensation Regulation is fixed for Wednesday, the 25th March 1936, ~~and~~ 9/2 write to state that the Special Convocation of the Mysore University for confering the LL.D. Degree is likely to come off on the same at Mysore and it is possible that many would have to be there for that occasion. In these circumstandes perhaps the question of holding the Select Committee meeting a week earlier or later will be favourably considered.

Thanking you.

Yours sincerely,

To

C.Subrahmanya Iyer, Esq., B.A., B.L.,
Secretary, Legislative Council,
General and Revenue Secretariat, 6726
BANGALORE.

Submd. for orders.

Notices have been issued. It is difficult to change the date.

2nd Member)

Except to reply by Secretary.

The 2nd Member said that

Secretary to reply by Secretary.

Lc 6/3/36

Workmen's Compensation Bill

General and Revenue Secretariat | File No. 7 of 1936 | [App. F. III—2

Serial No.

Subd. with a draft as to the changes desirg

See 9/3

Sd

6/9/36

Issued vide P 6052-2-9 dt 11/3

The S.C was held on & adjourned to 6th April, Subd. with as above

C. M.

See 9/8/36.

Sd

6/23/3

Issued No 6410-17. 9/27/3.

The S.C meeting was held on the 6

Draft report of S.C & Bill as amended are submitted for approval. They will be circd to the members

2nd Member)

6/4/36

Sd

10/4/36.

Send copies of draft to members of

Sd

12/4/36

1936 CTT.

23 MAR 1936 CTT.

OFFICE OF THE ... OF COUNCIL. 26 MAR. 1936 No. 7720

NOTE—Contn Sheet.

WD 03594—GPB—30,000—13-7-35

14

5725 6250 6567 6674

File No. of 193 General and Revenue Secretariat

Sent with a draft to members of the S.C.

See 14/4. In English

Issued vide 6648-SS of 16/4

The report has been returned with approval by each member.

Mr. Umakant Ambalangodan & K.T. Bhashyam desired sent with a draft reminder.

See 28/4. In English

Issued vide P7224

The report has not been returned by Mr. Bhashyam

Sent for orders

If the report is to be published with this name also

See 5/5 The report will be published

It will be indicated by a Note against Mr. Bhashyam Iyengar's name that he has not communicated his approval or otherwise

2nd Number)

See 5/5/36 Rtd

RM 6/5/36

TYPING SECTION 14 APR. 1936 GENL & REV. SECTT.

Sent 16-5-36

TYPING SECTION 28 APR. 1936 GENL & REV. SECTT.

OFFICE OF THE SECOND MEMBER OF COUNCIL. 6 MAY 1936 NO 8601

Workmen's compensation (Amendment) Bill.

General and Revenue Secretariat | File No. Legis 7 of 1936 | [App. F. III—2

Serial No.

To the L.C Office with 15 copies of the report of Bills as amended by the Select Committee

Sec
7/6
Copies taken
Sgd 7/6/36

The select committee report has been published & copies thereof sent to members.

The following motions may be moved at the ensuing sitting of the L.C :-

(a) motion that the Bills and the report of the select committee thereon be taken into consideration

(b) motion that the Bills as amended be passed

Submitted for orders.

Sec
4/6/36. (Sgd)
2nd Member)

8/6/36

OFFICE OF THE SECOND MEMBER OF COUNCIL. 7 JUNE 1936 No. 958

NOTE—Contn Sheet.

WD 03594—GPB—30,000—13-7-35

65 93

1

16

THE MYSORE LEGISLATIVE COUNCIL.

Budget Session - June 1936.

BILL TO AMEND THE WORKMEN'S COMPENSATION REGULATION, XIV of 1928.

AMENDMENT.

Section 3, (1), proviso (b) -

That the first of the two amendments to this proviso be withdrawn and the wording be retained as at present.

Mover: Mr. F.L. SILVA.

In the original Regn. there was proviso (b) to S. 3 object to remove the liability of the employer to pay Compensation when the accident was due to the wilful negligence of the workman. This was thought to be an hardship in the case of fatal accidents as the dependents will not be in a position to rebut plea of misconduct and the denial of relief will prove to great hardship.

Hence it is proposed Bill to amend the clau so as to make the inapplicable in the of fatal accidents.

It is not clear how Silva wants to this amendment of the the clause as in original Regn.

Submitted for orders.

Sec
12/6.

The idea of the amendmen proposed in the Bill is not to exempt employer from liability in the ca fatal accidents. Mr. Silva's sugge not accepted

(2nd Number) 12/6/36

MM 13/6/36

The amendment moved Mr Silva was lost & the as amended by S.C was Sanction of H.E has accorded on 14th July &

THE BECOR... OF COUNCIL. 12 ...E 1936 No. 9681

NOTE—Contn. Sheet.

P.S.No-7/36-37/8

7565

Workmens compensation Regn.

Ly

File No. Amendment of 1936

General and Revenue Secretariat

Submitted a draft G.O. for publishing the Regn.

Secy 29/7

Approved. W.F.

R 29/7

G.O No 846 Dt 31/7 ordering the publication in Rc. of Regn. III of 1936.

Press Secy

TYPING SECTION. 30 JUL 1936 GEN. & REV. SECTT.

Printed Copies Red & sent to Rc. Secy

Secy

9

Draft Bill to amend the Workmen's Compensation Regulation No.XIV of 1928.

—

1. This Regn shall be called the Workmen's Compensation (Amendment) Regulation 1933.

Whereas it is expedient to amend the Workmen's Compensation Regulation No.XIV of 1928, it is hereby enacted as follows:-

2. In Section 2 of the Workmen's Compensation Regulation, 1928 (hereinafter referred to as the said Regulation)

(a) in sub section 1 -

(i) the following shall be substituted for the existing clause (d)

(Cl.d). "dependant" means any of the following relatives of a deceased workman, viz:

(i) a wife, a minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependent on the earnings of the workman at the time his death, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widow daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent;

(ii) in sub clause (ii) of clause (d) the words "either by way of manual labour or" shall be omitted.

(b) for sub section (3) the following shall be substituted:-

The Government after giving by notifica
in the official Gazette, not less than three
months' notice of ~~their~~ intention ~~xx~~ so to, do
by a like notification, add to Schedule II a
class of persons employed in any occupation
which ~~they are~~ it is satisfied is a hazardous occu
tion.,

Provided ~~the rules apply in the case of~~
specified injuries only.

3. In Section 3 of the said Regulation,

(a) in sub section (1) in ~~the~~ proviso (
for the word 'ten' the word 'seven' shall be
substituted;

~~(ii) (b) in the same subsection in the same proviso~~

(ii) in proviso (b) for the words "injur
to a workman resulting from" the words "inju
not resulting in death caused by" shall be
substituted

XV of 1933

(iii) ~~(c)~~ the word 'or' at the end of sub sec
~~rit of proviso (b)~~
V of 1929 ~~3 of clause (b)~~ and the whole of ~~clause~~ (c)
shall be omitted;

(b) ~~(d)~~ in sub section (2) for the words
'hides or skins' the following shall be subs
XXIX of 1926. ed, viz., ~~xxxxx~~ or animal carcasses or part
such carcasses, or in the loading, unloading
transport of any merchandise, or in any work
connection with animals infected with anthra

(c) ~~(e)~~ in sub section 4 the words 'solely
XV of 1933 shall be omitted.

4. In section 4 of the said Regulation
~~In sub section (1)~~

XV of 1933 (a) ~~(i)~~ for clause (i) under A. the followi
shall be substituted:-

(i)"in the case of an adult in receipt of n
ly wages falling within limits shown in the f
column ~~xx~~ of Schedule IV - the amount shown
against such limits in the second column ther
and";

(b) for clause (i) under B, the following shall be substituted -

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV - the amount shown against such limits in the third column thereof and

~~(ii) the following shall be substituted for the existing clause (ii) -~~

(ii) in the case of a minor - twelve hundred rupees"

~~(c) the following clauses shall be substituted for clauses (i) and (ii) under D.~~

"(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV - of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor - of one-half of his monthly wages, subject to a maximum of thirty rupees."

5. In section 5 of the said Regulation (V of 1929)

(a) for the word and figure "Section 4" the words "this Regulation" shall be substituted;

(b) after clause (a) the following clause shall be inserted; viz., (XV of 1933)

"(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work

by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;"

(ii) ~~(3) renumber the existing~~ clause (b) ~~of the Section as (c)~~ shall be relettered as clause (c), and

(iii) ~~(4)~~ the proviso shall be omitted;

(V of 1929) 6. In Section 8 of the said Regulation,

(a) ~~(1)~~ for sub-sections (1) to (3) the following sub sections shall be substituted, namely

"(1) No payment of compensation in respect of a workman whose injury has resulted in death and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with th Commissioner, and nosuch payment made directly by an employer shall be deemed tc be a payment of compensation;

(XV of 1933)

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner frcm such compensation and repaid to the employer.

(V of 1929)

(2) Any other sum amounting to not less th ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall a sufficient discharge in respect of any compensation deposited with him."

(b) ~~(6)~~ (i) in sub-section (4), ~~of the~~ ~~line 2~~ the words "shall" ~~be~~ substituted for ~~may~~ the words "may" deduct"

(ii) after the words "under sub-section (1)" the words "or compensation in respect of a deceased workman" shall be omitted

(XV of 1933)

(ii) in clause (b) for the word 'twenty' the word 'twentyfive' shall be substituted for 'fifty'.

(c) The following sub-sections (5) to (7) shall be substituted in place of existing sub-section (5) of the same section.

"(5) Compensation deposited in respect of a deceased workman shall, subject to any deductions made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under legal disability, such sum may be invested applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.

(d) Sub section (6) of Section (8) shall be renumbered as sub section (8) and after that sub-section the following sub section shall be inserted, namely -

V of 1929 "11. (9) Where the Commissioner varies any order under sub section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or oth improper means, any amount so paid to or on beha of such person may be recovered in the manner hereinafter provided in section 31. 30"

7. In Section 10 of the said Regulation,—

(a) (1) In sub section (1), after the first Prov the following further proviso shall be inserted, namely:- XV of 1933

"Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings -

(a) if the claim is made in respect o the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was wo ing under the control of the employer or o any person employed by him, and the workma died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity o the premises or place where the accident occurred, or

(b) if the employer had knowledge of accident from any other source at or about the time when it occurred: and

XV of 1933 (b) 2. For sub section(3) the following sub-sections shall be substituted, namely :—

"(3) The Government may require that any prescribed class of employers shall maintain at their remises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable

times to any injured workman employed on
premises and to any person acting bona fi
on his behalf.

(4) A notice under this section may
served by delivering it at, or sending it
registered post addressed to, the residen
or any office or place of business of the
person on whom it is to be served, or, wh
a notice-book is maintained, by entry in
notice-book."

~~2.~~

8 ~~7.~~ After section 10 of the said Regu
tion the following sections shall be inse
~~Sections 10A & 10B respectively — namely:—~~
~~namely:-~~

XV of 1953

Power to require from employer statements regarding fatal accidents

"10A.(1) Where a Commissioner receive
information from any source that a workma
has died as a result of an accident arisi
out of and in the course of his employmen
he may send by registered post a notice t
the workman's employer requiring him to
submit, within thirty days of the service
of the notice, a statement, in the prescr
form, giving the circumstances attending
death of the workman, and indicating whet
in the opinion of the employer, he is or
not liable to deposit compensation on
account of the death.

(2) If the employer is of opinion th
he is liable to deposit compensation, he
shall make the deposit within thirty days
of the service of the notice.

(3) If the employer is of opinion th
he is not liable to deposit compensation,
he shall in his statement indicate the
grounds on which he disclaims liability.

(4) ~~Whether~~ where the employer has so
~~his~~ disclaimed liability, the Commissione

after such enquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as may think fit.

~~XV of 1933~~ Reports of fatal accidents

10B(1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of a employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to th Commissioner giving the circumstances attend ing the death:

Provided that where the Government has so prescribed the person required to give th notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give notice.

(2) The Government may, by notificatior in the official Gazette, extend the provisic of sub section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notifica- tion, specify the person who shall send the report to the Commissioner.

XV of 1933 9 In sub-section (2) of Section 12 of th said Regulation after the words "the contra tor" the following words shall be inserted:-

"or any other person from whom the worl man could have recovered compensation and where a contractor who is himself a princip is liable to pay compensation or to indemni a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a

contractor from whom the workman could have recovered compensation."

10

8. In Chapter II and after the section 17 of the said Regulation the following sections shall be inserted, viz:-

"17A. (1) Whoever-

(a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A

(c) fails to send a report which he is required to send under section 10B,

(d) fails to make a return which he is required to make under section 15

shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognisance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed."

11

10. In sub section (1) of section 18 of the said Regulation for the words 'the Commissioner' the words 'a Commissioner' shall be substituted.

12

11. In section 19 of the said Regulation after sub section (1) the following sub section shall be inserted, viz:-

"(2) Where more than one Commissioner has been appointed for any local area, the

Government may, by general or special order, regulate the distribution of business between them."

(b) sub sections (2) and (3) ~~of the said section~~ shall be renumbered as sub sections (3) and (4).

XV of 1933 ~~12~~ 13. In Section 20 of the said Regulation,-

(a) in Sub-Section (1), for the words "the Commissioner" the words "a Commissioner" shall be substituted, and

(b) After sub section (4) the following sub sections shall be inserted, ~~viz:-~~

"(5) The Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it."

XV of 1933 ~~13~~ 14. In section 21 of the said Regulation -

(a) in sub section (1) after the word "Commissioner" ~~insert~~ a comma and the ~~following~~ words "other than an application by a dependant or dependants for compensation", shall be inserted; and

(b) in sub section (2),

(i) for the words "where any such question has arisen, the application", the words "an application to a Commissioner" shall be substituted, and

(ii) in clause (a) after the brackets and letter (i) the words "except in the case of an application by dependants for compensation," shall be inserted.

~~14~~ 15. After section 21 of the said Regulation XV of 1933 the following sections 21(A) shall be inserted, ~~viz:-~~ namely:-

Power of Commissioner to require further deposit in cases of fatal accident.

21.A. (1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has result in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a furth deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissione the Commissioner may make an award determini the total amount payable, and requiring the employer to deposit the deficiency.

~~15~~. In section 22 after the words "objects the following words shall be inserted:-

"and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure ~~1898~~ 1904."

~~16~~ In sub section (1) of section 27 of the said Regulation, ~~for the words "to a perso under any legal disability"~~ the words "to a woman or a person under a legal disability" shall be substituted.

~~(ii)~~ Clause (b) of the proviso shall be omitted;

~~(iii)~~ in clause (d) for the words "to a pers under legal disability" the words "to a woman or a person under a legal disability" shall be substituted, and

~~(iv)~~ for the words "~~of~~ ~~occurring after agreement~~" the word "and" shall be substitute

17. In sub-section (1) of section 29 of the said Regulation the word "high" shall be substituted for the word "chief".

19. After section 29 of the said Regulation the following section shall be inserted:-

"29 A. Where an employer makes an appeal under clause (a) of sub section (1) of section 29, the Commissioner may, and if so directed by the High Court shall, pending the decision o the appeal, withhold payment of any sum in dene with him.

18. In sub section (1) of section 29 of the said Regulation after the existing proviso the foll further proviso shall be added, viz.,-

"Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certif by the Commissioner to the effect that the appe has deposited with him the amount payable under order appealed against.

20. In section 31 of the said Regulation -

(i) In sub section (2) after clause (k) the following clauses shall be inserted:-

"(l) for prescribing the classes of employers who shall maintain notice books under sub sectio (3) of section (10) and the form of such notice books;

(m) For prescribing the form of statement to b submitted by employers under section 10 (A)

(ii) clause (d) shall be relettered as clause (f) and clauses (e) to (k) shall be relettered as clauses (g) to (m) respectively.

(iii) After clause (m) the following clauses (n), (o) and (p) shall be inserted

(n) for prescribing the classes of employers who shall maintain notice books under sub-section (3) of section 10, and the form of such notice-books;

(o) for prescribing the form of statement to be submitted by employers under section 10 A;

(p) for prescribing the cases in which the report referred to in section 10 B may be sent to an authority other than the Commissioner;

21. After section 32 of the said Regulation the following sections shall be inserted, namely,

"32A. The Government may by notification in the official gazette make rules for the transfer to any part of the British Dominions or to any other country of money paid to a Commissioner under this Regulation for the benefit of any person residing or about to reside in such part and for the receipt and administration in Mysore of any money awarded under the law relating to workmen's compensation in any part of such British Dominions or of any Local Government and applicable for the benefit of any person residing or about to reside in Mysore.

XVII of 1933 22 ~~20~~ ~~21.~~ in schedule II to the said Regula tion, for clauses (i), (ii) (vii) the following clauses + Explanation shall be substituted vi

"(i) employed, otherwise than in a clerical capacity or on a railwa in connection with the operation or maintenance of mechanically propelled vehicles; or

(ii) employed otherwise than in a cler capacity in any premises wherei within the precincts whereof, or one day of the preceding twelve months, ten or more persons have been employed in any manufacturing process, as defined in clause (4) of section 2 of the ~~and~~ Mysore Factories Regulation or in any kind of work whatsoever indidental to or connected with any such manufacturing process or with the article mad and steam, water or other mechani power or electrical power is used or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been s employed; or

Causes the defendant had only to raise a plea that he was an "agriculturist" within the meaning of the Agriculturists' Relief Regulation, whether that plea was true or false, to get the suit transferred to a Court of ordinary civil jurisdiction with its longer and more elaborate procedure, that would be an obvious invitation to a dishonest defendant to set up even the most patently false plea that he was an "agriculturist" in order to gain time. It would be most unreasonable to attribute to the Legislature the intention to allow dishonest tactics of that sort or carelessness such as would provide the opportunity for them. But I do not think we need really let those obvious inconveniences, which would result if the learned Subordinate Judge's view, if adopted, affect our interpretation of the provisions of the Agriculturists' Relief Regulation in any way, because without considering those inconveniences I think the meaning of the Regulation is quite clear on this matter.

In my opinion it is to be regretted that the learned Subordinate Judge did not follow the practice already in force in his Court, under which in such suits the Judge of the Court of Small Causes decided the preliminary issue

issue whether the defendant was an "agriculti rist". Instead of departing from that practice he might well, I think, have follow the practice of his predecessors and have left it to any person who thought himself aggrieved to come to this Court in revision. In my opinion we should now set aside the orders of the learned Subordinate Judge in these three cases and direct him to hear and decide the preliminary issue whether the Defendant is an "agriculturist" within the meaning of the Agriculturists' Relief Regula tion in each of the suits.

Sd/- H. D .C. REILLY,

CHIEF JUSTICE.

"Copy"

Registrar

MR. JUSTICE

MR. JUSTICE K. SHANKARANARAYANA RAO:-

I am also of opinion that the order of the learned Additional Subordinate Judge whic has occasioned this reference cannot be supported. He bases his order on an interpretation of Section 23 of the Agriculturist Relief Regulation read with Sections 3 and 4. Section 23 provides that every suit under tha Regulation shall be tried as an original suit The expression "original suit" is nowherb - defined. But we have sufficient material in the Mysore Civil Courts Regulation I of 1883 which makes the intent clear. Section of that Regulation specifies that the jurisdiction of the District Court shall extend to all original suits and proceedings of a civil nature. Section 9 similarly provides that the jurisdiction of a Subordinate Judge shall extend to all original suits and proceedings of a civil nature. Likewise Section 10 stat that the jurisdiction of a Munsiff shall exte to all like suits proceedings meaning origina suits. Again Section 12 provides that appea from the decrees and orders passed in "origin suits" and proceedings by a District Court sha lie, when such appeals are allowed by law, to the High Court, and so on. The same Regulation again provides for four different classe

of Courts, one of them being the Court of Small Causes. From an examination of thes and other provisions of the Mysore Civil Courts Regulation it is clear that the expr sion "original suit" is intended to connote a suit different from a suit cognizable by a Court of Small Causes.

Coming now to the question of the int tion k of the Legislature in regard to the procedure to be adopted it seems to me to b abundantly clear that when a defendant clai to be an "agriculturist" as defined in Sect 2 of the Agriculturists' Relief Regulation, the question has to be determined by the ve Court before which the suit is proceeding, even though it may happen to be a Court of Small Causes. Section 3, refers to the several classes of suits to which the Regul tion applies, and for a suit to come within that Section two important conditions have t be fulfilled, viz. (1), that the suit must l one coming under that section and (2) that the suit should be one in which the defenda or any one of the defendants is an "agricul rist". The learned Subordinate Judge has apparently fallen into an error in interpre the words "where the defendant or any one of the defendants is an "agriculturist" to mea

Whether that Court is a Court of Small Cause
or is a Court exercising what is ordinarily
understood as original jurisdiction, will
entirely depend upon the nature and the valu
of the claim.

I therefore agree with the learned Chi
Justice that the orders passed by the learne
Additional Subordinate Judge should be set
aside.

Sd/- K. Shankaranarayana Rao,

JUDGE.

"C o p y"

REGISTRAR

KSR/8/23-11.

Bill further to amend the Mysor
Agriculturists'Relief
Regulation.

Whereas it is expedient to fur
amend the Mysore Agriculturists' Re
Regulation, 1926, it is hereby enac
as follows:-

After Sub-Section (1) of Secti
of the Mysore Agriculturists' Relie
Regulation 1926, the following new
Sub-Section ~~should~~ shall be inserted, nam

(1-A) Notwithstanding anything
to the contrary contained in this
Regulation, the question as to the
status of a party as an agricultur
in suits filed after -- shall be raise
at the earliest possible opportunity.

6
11/1/36

Statement of objects and reasons.

From Explanation (c) to Sectic of the Mysore Agriculturists' Relief Regulation, 1928, it would appear tha party to a suit under the Regulation could raise the question of status of agriculturist for claiming the benefi of the Regulation, at any stage of t suit. Such a provision might have all right at the time the Regulation passed since there were pending suit the Regulation was made applicable them also. ! In fairness to the plain ~~defe dants~~ and to the Courts it is desira that, in future ~~further~~ suits, the defendan should be required to raise his clai for the benefit of the Regulation at earliest possible moment.

It is accordingly proposed to amend the Regulation as in the Bill.

11/1/32

SG.

NOTIFICATION.

No. 4675—Encls.—L.C., Bangalore, dated 26th May 1936.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Agriculturists' Relief Regulation is published for general information with the statement of objects and reasons.

By Order,
C. SUBRAHMANYA AIYAR,
Secretary,
Mysore Legislative Council.

Bill further to amend the Mysore Agriculturists' Relief Regulation.

Whereas it is expedient to further amend the Mysore Agriculturists' Relief Regulation, 1928, it is hereby enacted as follows:—

After Sub-section (1) of Section 4 of the Mysore Agriculturists' Relief Regulation, 1928, the following new Sub-section shall be inserted, namely—

(1-A) Notwithstanding anything to the contrary contained in this Regulation, the question as to the status of a party as an agriculturist, in suits filed after—shall be raised at the earliest possible opportunity.

Statement of Objects and Reasons.

From Explanation (*c*) to Section 2 of the Mysore Agriculturists' Relief Regulation, 1928, it would appear that a party to a suit under the Regulation could raise the question of status of an agriculturist for claiming the benefit of the Regulation, at any stage of the suit. Such a provision might have been all right at the time the Regulation was passed since there were pending suits and the Regulation was made applicable to them also.

In fairness to the plaintiffs and to the Courts it is desirable that in future suits, the defendant should be required to raise his claims for the benefit of the Regulation at the earliest possible moment.

It is accordingly proposed to amend the Regulation as in the Bill.

Printed by the Superintendent at the Government Press, Bangalore.

Statement of general principles of the Bill further to amend the Mysore Agriculturists Relief Regulation. 29

From the special report received from the High Court on the working of the Agriculturists Relief Regulation, it is s that in a large number of cases, the claim for the benefit o the Regulation was rejected, indicating that vexatious appl tions are often put in either to protract suits or in the ho of getting the benefit of provisions not intended for such a cants. Under the Regulation, at present, a party to a suit c raise the question of status of an agriculturist for claimin the benefit of the Regulation, at any stage of the suit. Su a provision might have been appropriate ~~at the time~~ when the Regu tion was first introduced and affected pending suits. In fai ness to the plaintiff and to the Courts it is desirable that all future suits (instituted after a date to be fixed) the d fendant should be required to state his claim for the benefi of the Regulation at the earliest possible movement.

The agriculturists Relief Regulation is proposed to be amended accordingly.

Appendix F G—1]

SUBJECT.....

.....

.....

Section

File No.

Serial No.

No. P1344-GC. 2n.

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue.....21.8.36.....

Signed by Dr. C.S.J.

List of enclosures.....

Copied by .....

Examined by.....

To

1) D. Madhava Gowda Esq B.A., LL.

2) M. V. Narayanamurthy B.A., B

3) D. H. Chandrasekhar Esq. B.A., LL

4) A. R. Nageswara Esq. B.A., B.

5) K. V. Anantaraman B.A.

6) B. T. Kesavaiengar B.A

A meeting of the select committee appo to consider the Bill further to amend the A Agriculturists Relief Re lations will be held the Chambers of the First member of Counc Public office Ba Bangalore, at 3 P. M

Thursday Thu 27th Aug 1936

B.O

Secy 1st this committee

Secy copy to P.A to three members

4 L.C office

4 Copies Rec

...port of the Select Committee on the Bill to amend the Agriculturists Relief Regn.

We the undersigned members ~~of which~~ of the Select Committee to which the Bill to amend the Agriculturists Relief Regulation was referred have considered the Bill and have now the honour to submit this, our report :-

We agree to the Bill and only propose a verbal amendment to the effect that the words "in suits filed after —" be transposed to the end of the clause.

K. Chandrasekhara Aiyar.

subject to note.

V. V. Narayana Murthy

Muhammad Ismail subject to a note. X

V. Krishnaswami Iyer

T. Prakasam

Chelsahungam
Secretary
27/8/1936

X The note has not been sent to me.
T. Muthiah Gounder.

D. H. CHANDRASEKHARAIYA, B.A., LL.B.
ADVOCATE
MEMBER, MYSORE LEGISLATIVE COUNCIL

DAVANGERE 33

Dated 12/9/1936

A 71 of 36

To,

The Secretary,
Legislative Council,
Bangalore

Dear Sir

I have signed the Report of the Select Committee to consider the Bill to amend the Agriculturists' Relief Regulation subject to a note to be put up by me. Accordingly I am herewith enclosing a note to be published along with the said Report

Yours faithfully
D H Chandrasekharaiya

A. Note By Mr. D.H. Chandrasekharaih,

1. The proposed amendment though simple, has obviously far-reaching results on the rights of the agriculturists. It has a close bearing on Sec. 2 (c) of the Regulation which is itself found to be rather difficult of interpretation and application and in fact, it modifies that Section so as to curtail the liberty of the agriculturists to raise questions of status at any time.

2. As the principle of this ammendment is al-ready accepted by the Legislature, the Select Committee has certainly no powers to go behind it. But at the same time a clear enunciation of that principle and its proper application to different sets of circumstances deserve our careful consider-ration to avoid all ambiguity and indefiniteness in legislature. With this object in veiw, let us try to understand what the "earliest possible opportu-nity" would mean in the following cases:
1. when a party is personally served with summons or notice as the case may be and he appears in per-suance thereof in the case. 2. when he is per-sonally served with summons or notice and he does not appear in the case for any sufficient cause till after the decree. 3. When he is not personally served with summons or notice but the process is returned with an endorsement of service on house or on refusal and the same is held suf-ficient service.

3. Of the three possible cases mentioned above, the first is the simplest to understand and the easiest to determine as to when " the earliest possible apportunity " arises. But the difficulty comes in when the circumstances of the other two cases in which exparte decrees would pos-

possibly have been passed, are taken into account. Can we say in such cases that a party has lost "the earliest possible oppurtunity" for raising the question of status and if not when can we say he would have it ? A party who is served, as in the seccond case above, may be permitted by any sufficinet cause from appearing in the case before the decree and to hold in such a case that he has deprived himself of "the earliset possible opportunity" would be nothing short of causing a great hardship to him. So, it would be most equitable to allow a party to raise the question of status with in a given time, say a period of 30 days from the date of the decree, and to deem that period "the earliest possible opportunity" for the purpose.

The third case, in which a party is not at all personally served but the service is held sufficient for purposes of passing an exparte decree, is even harder. What is "the earliest possible oppurtunity" to such a person ? It is unfortunately within our experience that decrees are sometimes obtained without the opposite parties ever coming to know of the filing of the suits thus frustrating the very object of the Regulation. A party after coming to know of the exparte decree might not desire to file an application for setting it aside and it is not easy either to get exparte decrees set aside especially after lapse of some time. But to prevent him from getting the reliefs to which he is entitled under the Regulation for no fault of his, while he suffers the decree to stand good, would not be just and proper The purpose of the Regulation would, therefore, be served if, in such a case, a party is allowed some time say, a period of 30 days after he comes to know of the suit or decree, for the determination of the

36

the "earliest possible oppurtunity". The Regula-
-tion in extends to give certain releifs to the agri-
-culturists who form the back bone of the State
and it is submitted that so long as it stands not-
-hing should be done to whittle down its good
effects.

4. In veiw of the foregoing reasons and cir-
-cumstances the following may be added to the pro-
-posed announcement to explain what " the earliest
possible opportunity " means:-

" The earliest possible opportunity" in the above subsection shall (1) in suits in which a party is personally served with summons or notice and he does not appear in the case in persuance thereof, be taken to mean anytime within a period of 30 days from the date of decree and (2) in suits in which a party is not personally served with summons or notice and he does not appear in the case in persuance thereof, be taken to mean anytime within a period of 30 days from the date of his knowledge of the particular suit or decree.

D. Chandrasekharaiya

NOTIFICATION.

No. Rl. 193—L.C. 3-36-2, dated Bangalore, 22nd September 1936.

Under Standing Order No. 49 of the Standing Orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill further to amend the Mysore Agriculturists' Relief Regulation.....is published for general information.

By Order,

A. SUNDARARAJA RAO,

Secretary,
Mysore Legislative Council.

Report of the Select Committee on the Bill to amend the Agriculturists' Relief Regulation.

We, the undersigned members of the Select Committee to which the Bill to amend the Agriculturists' Relief

Regulation was referred, have considered the Bill and have now the honor to submit this our report :—

We agree to the Bill and only propose a verbal amendment to the effect that the words "in suits filed after— " be transferred to the end of the clause.

(Sd.) K. V. Anantaraman.
„ B. T. Kesaviengar.
„ D. H. Chandrasekharaiya
(subject to a note.)
„ N. V. Narayanamurthy.
„ T. Madiah Gowda
(subject to a note.*)
„ A. R. Nagesvara Iyer.
„ S. P. Rajagopalachari (Chairman).

A Note by Mr. D. H. Chandrasekharaiya.

The proposed amendment though simple, has obviously far-reaching results on the rights of the agriculturists. It has a close bearing on Section 2 (*c*) of the Regulation which is itself found to be rather difficult of interpretation and application and in fact, it modifies that section so as to curtail the liberty of the agriculturists to raise questions of status at any time.

2. As the principle of this amendment is already accepted by the Legislature, the Select Committee has certainly no powers to go behind it. But at the same time a clear enunciation of that principle and its proper application to different sets of circumstances deserve our careful consideration to avoid all ambiguity and indefiniteness in legislation. With this object in view, let us try to understand what the " Earliest possible opportunity" would mean in the following cases :—

(1) When a party is personally served with summons or notice as the case may be and he appears in pursuance thereof in the case, (2) when he is personally served with summons or notice and he does not appear in the case for any sufficient cause till after the decree, (3) when he is not personally served with summons or notice but the process is returned with an endorsement of service on house or on refusal and the same is held sufficient service.

*The note has not been sent by Mr. T. Madiah Gowda.

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3. Of the three possible cases mentioned above, the first is the simplest to understand and the easiest to determine as to when " the earliest possible opportunity " arises. But the difficulty comes in when the circumstances of the other two cases, in which *ex parte* decrees would possibly have been passed, are taken into account. Can we say in such cases that a party has lost " the earliest possible opportunity " for raising the question of status and if not when can we say he would have it? A party who is served, as in the second case above, may be permitted by any sufficient cause from appearing in the case before the decree and to hold in such a case that he has deprived himself of "the earliest possible opportunity" would be nothing short of causing a great hardship to him. So, it would be most equitable to allow a party to raise the question of status within a given time, say a period of 30 days from the date of the decree, and to deem that period " the earliest possible opportunity " for the purpose.

The third case, in which a party is not at all personally served but the service is held sufficient for the purposes of passing an *ex parte* decree, is even harder. What is " the earliest possible opportunity " to such a person? It is unfortunately within our experience that decrees are sometimes obtained without the opposite parties ever coming to know of the filing of the suits thus frustrating the very object of the Regulation. A party after coming to know of the *ex parte* decree might not desire to file an application for setting it aside and it is not easy either to get *ex parte* decrees set aside especially after lapse of some time. But to prevent him from getting the reliefs to which he is entitled under the Regulation for no fault of his, while he suffers the decree to stand good, would not be just and proper. The purpose of the Regulation would, therefore, be served if, in such a case, a party is allowed some time, say a period of 30 days after he comes to know of the suit or decree, for the determination of the " earliest possible opportunity." The Regulation intends to give certain reliefs to the agriculturists who form the back-bone of the State and it is submitted that so long as it stands nothing should be done to whittle down its good effects.

4. In view of the foregoing reasons and circumstances, the following may be added to the proposed announcement

so explain what "the earliest possible opportunity" means:—

"The earliest possible opportunity" in the above sub-section shall (1) in suits in which a party is personally served with summons or notice and he does not appear in the case in pursuance thereof, be taken to mean any time within a period of 30 days from the date of decree and (2) in suits in which a party is not personally served with summons or notice and he does not appear in the case in pursuance thereof, be taken to mean any time within a period of 30 days from the date of his knowledge of the particular suit or decree."

Printed by the Superintendent at the Government Press, Bangalore.

BILL AS AMENDED BY THE SELECT COMMITTEE.

[Additions are indicated in italics and omissions are enclosed in square brackets.]

Bill further to amend the Mysore Agriculturists' Relief Regulation.

Whereas it is expedient to further amend the Mysore Agriculturists' Relief Regulation, 1928; It is hereby enacted as follows :—

After Sub-section (1) of Section 4 of the Mysore Agriculturists' Relief Regulation, 1928, the following new Sub-section shall be inserted, namely—

(1-A) Notwithstanding anything to the contrary contained in this Regulation, the question as to the status of a party as an agriculturist [in suits filed after—], shall be raised at the earliest possible opportunity *in suits filed after.—*

A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Bangalore,
Dated 15th October 1936.

WD 560—GPB—250—20-10-36

42

finally passed

BILL AS ~~AMENDED BY THE SELECT COMMITTEE~~.

~~[Additions are indicated in italics and omissions are enclosed in square brackets.]~~

Bill further to amend the Mysore Agriculturists' Relief Regulation.

Whereas it is expedient to further amend the Mysore Agriculturists' Relief Regulation, 1928. It is hereby enacted as follows :—

After Sub-section (1) of Section 4 of the Mysore Agriculturists' Relief Regulation, 1928, the following new Sub-section shall be inserted, namely—

(1-A) Notwithstanding anything to the contrary contained in this Regulation, the question as to the status of a party as an agriculturist ~~[in suits filed after—]~~, shall be raised at the earliest possible opportunity *in suits* 30th *filed after* 4 April 37

Bangalore,
Dated 15th October 1936.

A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

WD 560—GPB—250—20-10-36

G. R. S. VI.—S-III/14]

DRAFT.

SUBJECT.....

.....

.....

Section. Leg.
File No. 33-36
Serial No. 1

Diary No. of letter replied to.....

Proceedings of the Government of H. H. the Maharaja of Mysore.

Order No. P 4906/Eccl.

GENERAL AND REVENUE SECRETARIAT,

( )

, *the*.....*191*

Ordered that the accompanying Rules further to amend the Mysore Agricultural Relief Regulation which received the assent of His Highness the Maharaja, on the seven day of February 1937, be published as Regulation No. 11 of 1937, in the *Mysore Gazette* for general information.

Date of issue 9-2-37

Signed by Dr. A.S.R.

8-2

For *Secretary to Government.*

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada ~~to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication.~~

Copy to Drafts Section

NOTIFICATION.

Order No. P. 4906—*Legis.* 32-36-1, *dated Bangalore, the 9th February* 1937.

Ordered that the accompanying Regulation further to amend the Mysore Agriculturists' Relief Regulation which received the assent of His Highness the Maharaja on the second day of February 1937, be published as Regulation No. II of 1937 in the *Mysore Gazette*, for general information.

M. VENKATESA IYENGAR,
Secretary to Government,
General Department.

REGULATION No. II OF 1937.

(*Received the assent of His Highness the Maharaja on the second day of February 1937.*)

Regulation further to amend the Mysore Agriculturists' Relief Regulation.

Whereas it is expedient to further amend the Mysore Agriculturists' Relief Regulation, 1928; It is hereby enacted as follows :—

After Sub-section (1) of Section 4 of the Mysore Agriculturists' Relief Regulation, 1928, the following new Sub-section shall be inserted, namely—

"(1-A) Notwithstanding anything to the contrary contained in this Regulation, the question as to the status of a party as an agriculturist shall be raised at the earliest possible opportunity in suits filed after 30th April 1937."

MIRZA M. ISMAIL,
Dewan.

Price 0-0-3

10 copies 62

Appendix F G—1]

SUBJECT.....

.....

.....

Section

File No.

Serial No.

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 193 .

Date of issue 15-11-36.

Signed by Sec. A.S.R.

List of enclosures.....

Copied by .....

Examined by.....

Typing section
prompt-
-ness in
preparation of
the report
of Sec.

No. P3203-11/Sec 1

To

1) K. V. Ramakrishnaiah B.

2) Dr. G. Jnanakrishnaiah B.A.,

3) B. T. Kesavamurthy B.

4) S. Abdul Wajid

5) Rajasabhabhushanam Diwan Bahadur K. R. Srinivasaraghavachariar

6) J. Mahomed Imam Esq B.

7) K. T. Bhashyam and Esq B.A.,

8) Rajasevasaktasiromani Rao Sahib C. Hayavadanarao B.A.,

9) Dr. B. Gundappa Esq B.A.,

Sir,

I am directed to forward herewith a copy of the Annual Report of the Sericultural

6 5

Committee on the Debt
Consolidation Bill and
to request you to
kindly return it with
your approval on
or before the 16th the
instant.

I remain

Sir

Your obedient
humble servant

W. Lee
Secy to the
Commissioners

Report of the Select Committee
Debt conciliation Bill

We, the Members of the Select Committee to wha the Debt Conciliation Bill was referred, have consi the several clauses of the Bill and have now the ho to submit this our Report :-

Clause 2.- In sub-clause (e), after the word "Otherwise" the word 'and' may be inserted.

It was suggested that in Sub Clause (f) the word 'or' may be replaced by "and; but the majority of the Comm tee were of opinion that no such change was needed.

Clause 10 :- We consider that Sub Clause 3 need not be retained as a separate clause but may be a proviso to Sub Clause 2.

Clause 14.- We consider that the rights of a secured creditor should remain unaffected when he do not agree to the settlement and we therefore recomme that the following additional proviso be added to s clause (1) of this clause :-

"Provided further that when a secured creditor does not agree to the settlement, such settlement s not affect his rights to proceed against the secure property".

The other changes are more or less verbal;

~~"during which the breach continues after th first breach"~~.

As the changes recommended by us do not affect princi les of the bill, we recommend that the bill amended need not be published in the Gazette.

sd/ S. P. Rajagopalach (Chair
K. V. Anantaraman
B. T. Kesavaccingar
S. Abdul Wajid
K. G. Mekhri
K. R. Srinivasinga (Subject to
D. T. Bhashyam

12. X Messrs A. R. Nagesvara Rajas and P. Subbarama chetty were unable to be present at the meeting Mrs. H. B. Gundappa has not intimated his approval of the

Appendix F G—1]

65

SUBJECT.....

.....

.....

Section

File No.

Serial No.

Diary No. of letter replied to..... D.O. No. P3330.

To

Mr. B. Ganeshayya, B.
Advocate
Dharwar

General and Revenue Secretariat

( )

the *193* .

Date of issue..... 20.11.36

Signed by ..... Mr. A.S.R.

Dear Sir,

I am to invite reference to your letter No P3 dt 15-11-36 forwarding for approval the draft of the sketch to be added to the Debt Conciliation Bill and to say in reply that I am directed to state that the draft is approved by Government.

List of enclosures.....

Copied by .....

Examined by.....

66 If ... it is not received
by the 24th inst, it will
be taken as approved,
if there is no objection

Yours truly,

WDJ
19.11

5d

OFFICE OF THE SECRETARY, MYSORE LEGISLATIVE COUNCIL, BANGALORE.

No. 2189, *L.C., dated* 30*th November* 1936.

Under Standing Order No. 49 of the Standing Orders for the conduct of business of the Mysore Legislative Council, the following report of the Select Committee on the Mysore Debt Conciliation Bill is published for general information.

A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Report of the Select Committee on the Debt Conciliation Bill.

We, the Members of the Select Committee to which the Debt Conciliation Bill was referred, have considered the several clauses of the Bill and have now the honour to submit this our report:—

Clause 2.—In sub-clause (e), after the word "Otherwise", the word "and" may be inserted.

It was suggested that in sub-clause (f), the word "or" may be replaced by "and"; but the majority of the Committee were of opinion that no such change was needed.

Clause 10.—We consider that sub-clause (3) need not be retained as a separate clause, but may be a proviso to sub-clause (2).

Clause 14.—We consider that the rights of a secured creditor should remain unaffected when he does not agree to the settlement and we therefore recommend that the following additional proviso be added to sub-clause (1) of this clause:—

"Provided further that when a secured creditor does not agree to the settlement, such settlement shall not affect his rights to proceed against the secured property."

The other changes are more or less verbal.

As the changes recommended by us do not affect the principles of the bill, we recommend that the bill as amended need not be published in the Gazette.

Sd. S. P. Rajagopalachari (Chairman)
„ K. V. Anantaraman
„ B. T. Kesavaiengar
„ S. Abdul Wajid
„ M. G. Mekhri
„ K. R. Srinivasaiengar (Subject to a dissenting note)
„ J. Mahomed Imam
„ K. T. Bhashyam Aiyangar
„ C. Hayavadana Rao

(Messrs. A. R. Nagesvara Aiyar and P. Subbarama Chetty were unable to be present at the meeting. Mr. H. B. Gundappa has not intimated his approval of the Report.)

Dissenting Note.

In clause 2 (f) of the Bill, the word debtor is defined as meaning a person

(i) who earns his livelihood mainly by agriculture *or* who is a holder, whether he cultivates the land personally or otherwise, and

(ii) whose debts exceed one hundred rupees.

The object of the Bill as stated in the preamble is "to relieve agriculturists from indebtedness" and the statement of objects and reasons attached to the Bill makes it clear that "the measure applies to agriculturists who earn their living mainly by agriculture." But the use of the alternative word "or" italicised by me above in sub-clause (i) will make the Bill applicable not only to persons whose main profession is agriculture but also to any holder of land, however small his holding, and whether he makes his living mainly by agriculture or not. With this definition of "debtor," any banker, trader, contractor or Government Officer having debts to the extent of several thousands or lakhs of rupees may have himself brought within the definition by purchasing a few guntas of land and getting himself registered as the holder thereof and may claim to have the provisions of the Bill applied to him. As I have pointed out above, the Bill was not intended to apply to such cases; and I do not consider either necessary or desirable to have such cases brought within the purview of the Bill. I would therefore suggest that the "*or*" may be replaced by "and"; or, if it is intended (which I doubt very much) that the Bill should be applicable also to agricultural labourers who do not hold lands, the words "and includes" may be substitute for "or who" in sub-clause (i) quoted above.

2. I am of opinion that besides fixing a minimum limit for the debts, which may be dealt with under the Bill, it is very desirable to prescribe also a maximum limit, which I think may be fixed at Rs. 10,000. This may be done by the addition of the words "and does not exceed Rs. 10,000" at the end of sub-clause (ii) quoted above.

K. R. Srinivasa Iyengar.

Ld 3764 of 31

WD 03342—GPB—50,000—18-7-35

193

From

The Deputy Commissioner,

Shimoga District.

To

The Secretary to Government,

Legislative Department,

Bangalore.

Dated 29th December 1936.

Despatched

Received

General No. A1. Gl. 9156/35-37.

No.

Enclosure No. 2.

Sir,

I have the honour to for

ward herewith a note on the Debt

Reconciliation Bill by Mr.K.Shanka

Narayana Udupa,B...,B.L.,Advocate

this place.

I have the honour to be,

Sir,

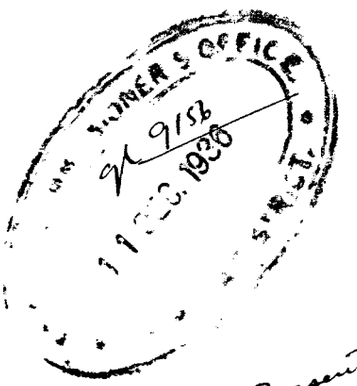
Your most obedient servan

Deputy Commissioner,

Shimoga District.

KRM

69



Presented in pe
by the applicant
11-12-36

To

The Deputy Commissioner
Shimoga District.

Sir,

I most humbly & respectfully beg to
enclose herein Notice on the "debt Conciliation
bill" for favour of consideration and Submission
to Govt., as it is shortly to be passed into
Law.

I beg to remain Sir,
Your most obedient servant
K. Shankaramurthy
Advocate

Shimoga
11. 12. 936

NOTES ON "THE DEBT CONCILIATION BILL".

1. The object of this Regulation is "to reduce the Agricultural Indebtedness by conciliation between the debtors and the creditors on a voluntary basis" (vide the statement of Objects and Reasons). But the select Committee recommend that "when a secured creditor does not agree to a settlement such settlement shall not affect his right to proceed against such property (vide proviso to Sec.14 (1)" If the above principle (as enunciated in Section 14 (1) proviso), is adopted in the Regulation, the very object of the Regulation will fail, because every secured creditor will not agree to the settlement, even though the debtor makes a fair offer, and such creditors will directly proceed against the properties of the debtors, and the chances are the debtors will lose their property for a very low price.

2. For instance, a debtor borrows Rs.40,000/- from one of his creditors, mortgaging all his properties valued at Rupees one lakh at the time of mortgage. In course of time the property goes down in value and at present, the property goes for 30,000Rs at the court sale. The same person has got other creditors as well, which are unsecured. If it is to be amicably settled, all the creditors will have to be summoned, and unsecured creditors will certainly agree to the settlement, because they have nothing to stand by, while the secured creditor will proceed to go to Civil Court, regardless of the provisions in this Regulation, because of the proviso in the Debt Conciliatio bill (now under discussion).

3. If according to the Select Committee's recommendation it is to be decided by the Board, the properties will firs go to the unsecured creditors, because they are helpless and nothing to stand by, in case the secured creditor does

71

not consent to an amicable settlement, (which is always the case, when there are both secured and unsecured creditors). The secured creditor goes to Civil Court for redress and proceeds to sell the property, which by the sale it fetches only Rs.30,000 (the present day value), while the unsecured creditor will get nothing. To avoid this, both the secured and unsecured creditors must be made to go to the settlement and the proviso must be done away with.

4. Suppost ~~x~~ in the above illustration, there are six creditors of the same discription, one secured and the other five unsecured. If the secured creditor does not go to the settlement, the sum total of the debts will be one la while according to section 14 (1), first line, 50 per cent of the creditors must come to the agreement. The total amount of debts is one lakh, of which the secured creditor's debt alone is Rs.90,000, so that his absence from the Board upsets the whole thing. To avoid this, the total of debts is not the ~~xxxx~~ criterion, but the number of creditors is. If, instead, at least half the number of creditors must be made to go to the settlement, that will be alright.

5. The above suggestions are intended to cut short the litigation, or otherwise, they are sure to crop up in almost all the cases.

K. Ramakrishna Rao
Advocate
11.12.1926.

3932 p 36

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WD 03342—GPB—50,000—18-7-35

193

From The Deputy Commissioner,
Shimoga District.

To The Secretary to Government
Legislative Department
Bangalore.

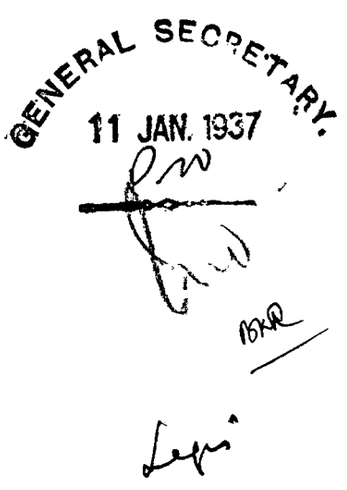
Dated 9th January 1937.

Despatched

Received

General No. A1. Ret. 1092/36-37.
No.

Enclosure No. 3.



Sir,

I have the honour to ward herewith an application da 22nd December 1936 re: Debt Rec ciliation Board, by Messrs. Sank narayana Goupa, Advocate & other together with its enclosures.

I have the honour to be,
Sir,
Your most obedient servant

Syedabmla
Deputy Commissioner,
Shimoga District.

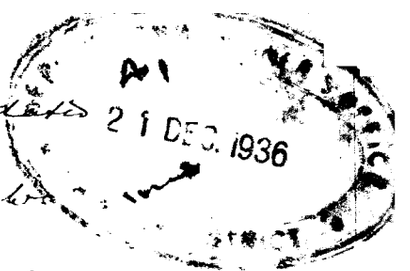
KRr

To

The Deputy Commissioner
Shimoga

AP
Pc
1092
36-7

Sir,



In continuation of our petitions dated 31. 10. 1936, 12. 11. 36, 11. 12. 1936, we most respectfully beg to enclose herein (1) one Kannada petition (2) English Note 3, the Kannada Application re the alteration in the proposals to be adopted in the "Debt Conciliation bill" which is going to be introduced very shortly, we pray most respectfully that the enclosures may kindly be perused & submitted to Govt for favourable orders.

We remain Sir,

Shimoga
22nd Dec 1936

Your most obedient servants

S. Moodala Siriacha Shanmuga
Advocate

B. Adiseshaiah
P. Venkatachar
J. Narayanacharlu
L. Narayana Rao

ಮೈಸೂರು ಶೀಮೆಯ ಶ್ರೀಮನ್ ಮುಮ್ಮಡಿರಾಜಾ
ಪಾಡೀಚೆ ಬಹದೂರವರ ನಿಕಾರದ ಚೀಫ್
ಸೆಕ್ರೆಟೆರಿಯವರ ಸನ್ನಿಧಾನಕ್ಕೆ.-

ಶಿವಮೊಗ್ಗಾಕಾಲ್ಲೋಪು ವಾಸಿಸ್ಥರಾದ ಈಳಿಗರು ಬಿಜ್ಜು ಮೂಡಿರುವ. ಸಿರಾಯಿಕು ಕಾರಕುಗಳ್ಳಾದ ನಾವುಗಳ್ಳು ಚೇಡಿಕೊಳ್ಳುವುದೇನಂದರೆ-

ನಾವು Debt Conciliation Board

ಎಂಬದನ್ನು ಸ್ಥಾಪಿಸಿ ನಮ್ಮನ್ನು ಉದ್ಧಾರ ಮಾಡಬೇಕಿಂದೆ ವಸ್ತ್ರೆ ನಾವುಗಳ್ಳು ಚೇರಿ ಚೇಕಿ ಕಡೆಯಿಂದ ಸನ್ನಿಧಾನಕ್ಕೆ ಬರಕೊಂಡ ಅರ್ಜಿ ವರಾಂಬರಿಸಿ, ಅದಕ್ಕೋಲ್ಕರ ಇಪ್ಪೇಕಿಂಗಳ ಕಾರೀಕು 3 ರಲ್ಲಿ ಒಂದು Select Committee ಯನ್ನು ಸ್ಥಾಪಿಸಿದವಿಷಯಂ ಮೆನ್ನ Gazette ನಲ್ಲಿ ಪ್ರಸಿದ್ಧ ಪಡಿಸಿದ್ದು ನಮ್ಮಗಳಿಗೆಲ್ಲಾ ತಿಳಿದು ಬಹಳ ಕೃತಜ್ಞತೆಯಿಂದ ಸಂತೋಷ ಪಡುತ್ತೇವೆ.- ಆದರೆ, ಈ ರೆಸ್ಯುಲೇಷನ್‌ನಲ್ಲಿ ಒಂದೆರಡು ದೋಷಗಳು ಇರುವದು ಕಂಡುಬಂದು ಇವನ್ನು ಸನ್ನಿಧಾನದ ಗಮನಕ್ಕೆ ತಂದು ಇರುವದನ್ನ ದಯವಿಟ್ಟು ವರಾಂಬರಿಸಿ, ಅವನ್ನು ದೋಷಗಳಾಡಿಸುವಿಕಾಗಿ ದೈನ್ಯದಿಂದ ನಂಬುತ್ತೇವೆ. ಅವುಗಳ್ಳಾವವಂದರೆ :- ಸದರಿ ರೆಸ್ಯುಲೇಷನಿನ 14 ನೇ ಸೆಕ್ಷನ್ (1) ನೇದಬ್ ಸೆಕ್ಷನ್ ಪ್ರೊವಿಸೊ. ಇದರಲ್ಲಿ, "ಆಧಾರವಿರುವ ಸಾಲಕೊಟ್ಟವನೊಬ್ಬನು ರಾಜಿಯಿಂದ ಪ್ಲೈನಲ್ ಮಾಡಿಕೊಳ್ಳಲು ಒಪ್ಪದಿರುವವಿಷ್ಟಕ್ಕೆ ಅಂದ್ದಾ ಒಪ್ಪಿಗೆ ಕೊಡದಿರುವಿಕೆಯು ತನಗೆ ಆಧಾರಕೊಟ್ಟವನ ಮೇಲೆ ದೋಗಲು ಇದರಿಂದ ಬಾಧಕವೇನೂ ಆಗುವುದಿಲ್ಲ". ಇದೊಂದು ದೋಷ. ಇನ್ನೊಂದು ದೋಷವೇನಂದರೆ :- ಅದೇ ಸೆಕ್ಷನ್ ನಿನ 1 ನೇ ಸಬ್ ಸೆಕ್ಷನ್ 1 ನೇ ಪಂಕ್ತಿಯಲ್ಲಿ "ಶೇಕಡ ಐವತ್ತಕ್ಕಿಂತ ಜಾಸ್ತಿಯಾಗಿ

ಕಿಚ್ಚು ಇನರು ..... ರಾಜಿಯಿಂದ ಫೈನಲ್ಲಾಗಲು ಟೆಂಪ್ಲವ ಪಕ್ಷಕ್ಕೆ ....." ಎಂಕ ಇನ್ನೊಂದು ವಾಚಕವಿದೆ., ಇವೆರಡ್ರಿಂದ ಇನ್ನಷ್ಟು ಭಾರಿಯಾದ ಬಾಧ್ಯತೆಗಳು ಉಂಟಾಗಬಹುದೆಂಕ ಕಂಡುಬರುತ್ತವೆ. ಆದಕಾರಣ ಈಕೊಂದಕ್ಕಿಗಳಿಗೆ ಅವಕಾಶವಾಗುದಂಕೆ ಇಂಪ್ಲೀಷ್ ಮಿಮೋದಲ್ಲಿ ನಮೂದಿರುವ ಪ್ರಕಾರ ಕಮಿಟಿಯವರು ಒಪ್ಪಿದಂಕೆ ಆದನ್ನು ತಿದ್ದಪಾಟುಮಾಡಲು ಅವಕಾಶಕೊಡದೇ ಕಾರ್ಯಕು 28. 5. 1946 ನೇ ತಿಂಗಳಿನಲ್ಲಿ ಫೈನಲ್ ಆಗಿರುವ ನಮೂನೆಯಲ್ಲಿ ಇರಿಸುತಿಸಬೇಕಾಗಿ ಅತಿ ದೈನ್ಯದಿಂದ ಬೇಡಿಕೊಳ್ಳುತ್ತೇವೆ. ಮಹಾಸ್ವಾಮಿ. -

Ashtakavanam Rao
Advocate, Colonist, & Landholder

ಹಂಶರಾವ್

P. Ashtakavanam Rao

T. Narayana Rao

ಗೌರಮ್ಮ

ಶಂಕರಪ್ಪ

T. Nagappa Setty

ಬಿ. ಡಿ. ಮಾಧವರಾವ್

B. D. Madhava Rao

Mavalasiniah

ನಂಜುಂಡಪ್ಪ

NOTE ON THE DEBT CONCILIATION BILL.

1. The object of this regulation is "to reduce the agricultural Indebtedness by conciliation between the debtors and the creditors on a voluntary basis" (vide the statement of objects and Reasons). But the select committee recommended that "when a secured creditor does not agree to a settlement such settlement shall not affect his right to proceed against such property vide proviso to sec. 14 (1)". If the above principle (as enunciated in Section 14 (1) proviso), is adopted in the Regulation, the very object of the Regulation will fail, because every secured creditor will not agree to the settlement, even though the debtor makes a fair offer, and such creditors will directly proceed against the properties of the debtors and the chances are the debtors will lose their property for a very low price.

2. For instance, a debtor borrows Rs.40,000/- from one of his creditors, mortgaging all his properties valued at rupees one lakh at the time of mortgage. In course of time, the property goes down in value and at present, the property goes for 30,000 rupees at the court sale. The same person has got other creditors as well which are unsecured. If it is to be amicably settled, all the creditors will have to be summoned and unsecured creditors will certainly agree to the settlement, because they have nothing to stand by, while the secured creditor will prefer to go to Civil Court, regardless of the provisions in this Regulation, because of the proviso in the Debt Conciliation bill (now under discussion).

3. If according to the Select Committee's recommendation it is to be decided by the Board, the property will go to the unsecured creditors, because they are [illegible]

and nothing to stand by, in case the secured creditor does not consent to an amicable settlement, (which is always the case when there are both secured and unsecured creditors). The secured creditor goes to Civil Court for redress and proceeds to sell the property, which by the sale it fetches only Rs.30,000/- (the present day value), while the unsecured creditor will get nothing. To avoid this, both the secured and unsecured creditors must be made to go to the settlement and the proviso must be done away with.

4. Suppose in the above illustration, there are six creditors of the same discription, one secured and the other five unsecured. If the secured creditor does not go to the settlement, the sum total of the debts will be one lakh while according to section 14 (1), first line, 50 per cent of the creditors must come to the agreement. The total amount of debts is one lakh, of which the secured creditor's debt alone is Rs.90,000/-, so that his absence from the Board upsets the whole thing. To avoid this, the total of debts is not the criterion, but the number of creditors is. If, at least half the number of creditors must be made to go to the settlement, that will be alright.

5. The above suggestions are intended to cut short the litigation, or otherwise they are sure to crop up in almost all the cases.

A Shankaranarayana
Advocate

P Narasimha Rao

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ಮೈಸೂರು ಸಂಸ್ಥಾನದ ದಿವಾನರಾದ ಮೆಹಬ್ಬಾರ್ಖಾ

ಅಮೀರ್ ಉಲ್‌ಮುಲ್ಕ್ ಸರ್ ಮಿರ್ಜಾ ಇಸ್ಮಾಯಿಲ್,

ಕೆ. ಟಿ., ಕೆ. ಸಿ. ಐ. ಇ., ಒ. ಬಿ. ಇ.,

ಇವರ ಸನ್ನಿಧಿಯಲ್ಲಿ.

ಶಿವಮೊಗ್ಗ ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಶಿಕಾರಿಪುರ ತಾಲ್ಲೂಕು ಲಿಂಗದಹಳ್ಳಿ ಗ್ರಾಮದ ಈ ಕೆಳಗೆ ರುಜು ಮಾಡಿರುವ ಜಿರಾಯಿತುದಾರರಾದ ನಾವುಗಳು ಹೇಳಿಕೊಳ್ಳುವುದೇನೆಂದರೆ:—

ಮಹಾಸ್ವಾಮಿ, ಈಗಿನ ಕಷ್ಟಕಾಲದಲ್ಲಿ ನಾವುಗಳು ಅನುಭವಿಸುತ್ತಿರುವ ದುಃಖವು ಅಪರಿಮಿತವಾದ್ದು. ಅದನ್ನು ಸನ್ನಿಧಾನದಲ್ಲಿ ಹೇಳಿಕೊಂಡ ವಿನಹ ಬೇರೆ ಯಾವ ರೀತಿಯೂ ಕಾಣುವುದಿಲ್ಲ. ನಾವು ಹಿಂದೆ ಮಾಡಿದ್ದ ಸಾಲ ಕ್ಕೋಸ್ಕರ ಸಾಲ ಕೊಟ್ಟವರು ಕೋರ್ಟ್‌ನಲ್ಲಿ ದಾವಾ ಮಾಡಿ, ಡಿಕ್ರಿ ಪಡೆದು, ಜಫ್ತಿಗೆ ತಂದು, ನೂರಾರುವಿಧದ ನಷ್ಟಕಷ್ಟ ಗಳಿಗೆ ನಮ್ಮನ್ನು ಗುರಿಪಡಿಸುತ್ತಿರುವುದು ದಿನಾಲೂ ನಮಗೆ ಗೋಚರವಾಗುತ್ತಲೇ ಇದೆ. ನಾವು ಇಡೀ ವರುಷವೂ ಕಷ್ಟಪಟ್ಟು, ರಕ್ತ ತೇಯಿದು, ಅತಿ ಪ್ರಯಾಸದಿಂದ ಬೆಳೆದ ಫಸಲು ಕೂಡಾ ಸಾಲಗಾರರ ಕೈವಶವಾಗುವುದೆಂದರೆ ಎಂಥಾ ಕಷ್ಟವೋ ಹೇಳತೀರದು. ಸರ್ಕಾರಕ್ಕೆ ನಾವು ಕೊಡಬೇಕಾದ ಕಂದಾಯ ವಸೂಲು ಮಾಡುವುದಕ್ಕೆ ಒಂದೆರಡು ತಿಂಗಳು ಮುಂಚಿತವಾಗಿಯೇ ಸಾಲ ಕೊಟ್ಟವರು ಬಂದು ಮುಷ್ಕರ ಹಿಡಿದು ನಮ್ಮ ಹತ್ತಿರವಿರುವ ಸಮಸ್ತವನ್ನೆಲ್ಲಾ ದೋಚಿ ಕೊಂಡು ಹೋಗುತ್ತಿದ್ದಾರೆ. ಆನಂತರ ಕಂದಾಯ ಕೊಡುವ ಕಾಲ ಬರುತ್ತದೆ. ಆಗ್ಗೆ ಕಂದಾಯ ಕೊಡಲಿಕ್ಕೂ, ಮುಂದಿನ ಫಸಲು ರೇಖೆಗೂ, ಅಲ್ಲಿವರೆಗೆ ಜೀವನಮಾಡುವುದಕ್ಕೂ ಕಾಸಿಗೆ ಗತಿಯಿಲ್ಲದೆ, ಒದ್ದಾಡುತ್ತಿರುವ ಕಾಲವದಗಿ ಪ್ರಯಾಸ ಪಡುತ್ತಿರುವುದನ್ನು ಇಲ್ಲಿ ವರ್ಣಿಸಲಾರೆವು. ಆಗ್ಯೆ ನಮ್ಮ ಹತ್ತಿರ ಇರುವುದನ್ನೆಲ್ಲಾ ಮಾರಾಟಮಾಡಿದರೂ ಕೂಡ ಕಂದಾಯಕ್ಕೆ ಭರ್ತಿಯಾಗದೆ, ಜಮೀನು ಹರಾಜಿಗೆ ಬಂದು, ನೂರಾರು ರೂಪಾಯಿ ಕ್ರಯಬಾಳುವ ಜಮೀನು ಬಹು ಜೂಜಬಿ ಕಿಮ್ಮತ್ತಿಗೆ ಮಾರಾಟವಾಗಿ ಹೋಗಿ, ನಿರ್ಗತಿಕರಾಗುವ ಸಂಭವ ಒದಗಿ, ಬಡವರ ಆಸ್ತಿಯು ಹಣಸ್ಥರ ವಶಕ್ಕೆ ಬಹು ಸುಲಭ ಬೆಲೆಗೆ ಸೇರಿಹೋಗುತ್ತದೆ. ಅದಕ್ಕೆ ನಾವುಗಳು ಅವಕಾಶಕೊಡದೆ ಇನ್ನು ಮುಂದಾದರೂ ನಾವು ಸರ್ಕಾರಕ್ಕೆ ಕಂದಾಯವನ್ನು ಕ್ರಮವಾಗಿ ಪಾವತಿಮಾಡಿ, ಮುಂದೆ ಸರಿಯಾಗಿ ಫಸಲು ಬರುವವರೆಗೂ ಏರ್ಪಾಟು ಮಾಡಿಕೊಳ್ಳ ಬೇಕೆಂಬ ಇರಾದೆಯಿಂದ ನಾವು ಸನ್ನಿಧಾನದಲ್ಲಿ ಹೇಳಿಕೊಳ್ಳುವುದೇನೆಂದರೆ:— (1) ಸಾಲಾ ಕೊಟ್ಟವರ ಪೀಡೆಯನ್ನು ತಪ್ಪಿಸಿಕೊಳ್ಳುವುದಕ್ಕೋಸ್ಕರ ಘನವುಳ್ಳ ಸರ್ಕಾರದವರ ಪರ್ಯಾಲೋಚನೆಯಲ್ಲಿರುವ (Debts conciliation Board)ನ್ನು ಅತಿ ಜಾಗ್ರತೆಯಲ್ಲಿ ಸ್ಥಾಪಿಸುವುದರಿಂದ ಈ ಕಷ್ಟವೆಲ್ಲಾ ನಿವಾರಣೆಯಾಗುವುದು. (2) ಹಾಗೆ ಮಾಡಿದರೆ ಸಾಲ ಕೊಟ್ಟ ವರು ಕೊಡುವ ತೊಂದರೆಯು ನಿವಾರಣೆಯಾಗಿ ಅತಿ ಸುಲಭವಾದ ಕಂತುಗಳಲ್ಲಿ ಸಾಲವನ್ನು ವಾಪಸುತೆಗೆದುಕೊಳ್ಳುವರು. (3) ನಾವುಗಳು ಸರ್ಕಾರಕ್ಕೆ ಕೊಡತಕ್ಕ ಹಣವೆಲ್ಲಾ ಕಾಲಕ್ರಮೇಣ ಪಾವತಿಯಾಗಿ ಜಮೀನುಗಳು ನಮ್ಮಲ್ಲಿಯೆ ಉಳಿಯು ವುದು. (4) ಮುಂಚೆ ನಮಗೆ ಸಾಲಾ ಕೊಟ್ಟವರಿಗೆ ಅಸಲು ಸಾಧ್ಯವಾದಷ್ಟರಮಟ್ಟಿಗೆ ತೀರಿಹೋಗ ಕೆಲವು ಸಂದರ್ಭ ಗಳಲ್ಲಿ 3–4 ರಷ್ಟು ಬಡ್ಡಿಯೂ ಕೂಡ ತೀರಿಹೋಗಿರುವುದರಿಂದ ಹಣಸ್ಥರಿಗೆ ಯಾವ ತೊಂದರೆಯೂ ಆಗುವಹಾಗಿಲ್ಲ. (5) ನಾವುಗಳು ಮಾಡಿರುವ ಸಾಲವೆಲ್ಲ ಹೆಚ್ಚಿನಪಕ್ಷ ಜಮೀನು ಅಭಿವೃದ್ಧಿಗಾಗಿಯೇ ಖರ್ಚಾಗಿರುವುದರಿಂದ ಈಗ ಜಾರಿ ಯಲ್ಲಿರುವ ಕಾಯಿದೆ ಕಾನೂನುಗಳಿಂದ ಹಣಸ್ಥರಹತ್ತಿರ ಇನ್ನಷ್ಟು ಹಣವು ಸೇರಿ ಬಡವರ ಸ್ಥಿತಿಯು ಅಧೋಗತಿಗೆ ಬಿದ್ದು, ಅನ್ನೋದಕಕ್ಕೆ ಗತಿಯಿಲ್ಲದ ಹಾಗೆ ಆಗುವುದರಿಂದ ಬಡವರನ್ನು ಸ್ವಲ್ಪಮಟ್ಟಿಗಾದರೂ ಸುಧಾರಿಸಿ ಅವರನ್ನು ಸ್ವಲ್ಪ ಮುಂದಕ್ಕೆ ತರುವುದು ಘನಹೊಂದಿದ ಶ್ರೀಮನ್ಮಹಾರಾಜರವರ ಸರ್ಕಾರಕ್ಕೆ ಕೂಡಿದೆ. (6) ಹೀಗೆಮಾಡುವುದರಿಂದ ದೇಶವು ಉದ್ಧಾರವಾಗುವುದರಲ್ಲಿ ಏನೂ ಅಡ್ಡಿಯಿಲ್ಲ. ಆದ್ದರಿಂದ (Debts conciliation Board) ನ್ನು ಬರುವ 1937 ನೇ ಜನವರಿ ಗುರ್ತಿಯೊಳಗಾದರೂ ಎಲ್ಲಾ ಕಡೆಯಲ್ಲಿಯೂ ಜಾರಿಗೆ ತಂದು ಬಡವರಾದ ನಮ್ಮನ್ನು ಉದ್ಧಾರಮಾಡ ಬೇಕಾಗಿ ಸನ್ನಿಧಾನದಲ್ಲಿ ದೈನ್ಯದಿಂದ ಬೇಡಿಕೊಳ್ಳುತ್ತೇವೆ, ಮಹಾಸ್ವಾಮಿ.

1 ಬಿ.ವಿ. [illegible]
2 ಟಿ.ಬಿ. ಬಸವರಾಜಪ್ಪ.
3 [illegible]
ರುದ್ರಪ್ಪನವರು
ಸಿದ್ದಬಸಪ್ಪನವರು
ಎಸ್.ಎಸ್. ಬಸವರಾಜ
[illegible]
H. V. Lingappa.

9 ಉಜ್ಜಪ್ಪ ರಾಜು
10 ಚೌಂದಯ್ಯನವರು
11 ಮಲ್ಲಿಕಾರ್ಜುನಪ್ಪ
12 ನಾಗಪ್ಪನವರು
13 ರಾಜುತಿಮ್ಮಯ್ಯ ಕೆಂಡಿಬಾಸಾರು
14 ಬೀರರ ಹಾವಡು ಲಿಂಗದಹಳ್ಳಿ [illegible]

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15. M. కలి లిఖిత్ పత్ర నామములు

16 కేలుబర్తిబసవలింగప్పగారు

17 [illegible]

18 B. బసవన్నప్పనగారు

19 శ్రీ వీరభద్రేశ్వర దేవస్థానం

20 H. మల్లప్ప

21 గుర్రేశప్పనగారు

22 చిక్కేగౌడ చిన్నప్పనగారు

23 కొంబేహళ్ళప్పనగారు

24 H. Siddalingappa

25 నరసింహ కేరూరు

26 నంజప్ప దూదితరశరగారు

27 చంద్రగుబరప్పనగారు

28 పుట్టప్పనగారు

29 హాలప్పనగారు

30 వీరశైవ వేదిన కులం

[illegible]

[illegible]

వ్యాపారస్థులు

తుంకరలవరులు.

కుర్నరవప్ప దుకాణము

3821/P836

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To

The Chief Secretary
to the Government of His Highness
The Maharaja of Mysore
Bangalore.-

Sir,

Re the Debt Conciliation Bill,

We beg to state that we have submitted proposals through the Deputy Commissioner, Shimoga, for favour of consideration and approval on 31.10.36, 12.11.36, 11.12.36 and 21.12.36 and we are sure that they have reaches you. Our most heartfelt thanks due to the Government of His Highness, we beg to submit that it is lacking in one important particular that the D.P. Act No. II of 1933 as amended by Act No. I of 1934 and No. 14 of 1935, which is closely followed in this State mentions the section (Section 21 of the D.P. Act), but not proviso. We are at a loss to know why. If it had been followed here also, our troubles would have been at an end. To the same effect is our petition dated 21.12.1936. Another proviso (proviso 14 of our Regulation)

which was not at all in the Bill as originally brought was attempted to be put in by the Select Committee, which, if introduced would work a lot of hardship since 99 per cent of the mortgage deeds are registered under the Registration Regulation and Debts Conciliation Boards ~~and~~ will almost have no work to do and so everything will be at a stand-still. Our earnest prayer is therefore to do away with the proviso newly added, and so the first para of our application dated 22.12.1936 which runs as follows :-

2 The object of this Regulation "The Debt Conciliation Bill" is to relieve the Agricultural Indebtedness by Conciliation between the debtors and the Creditors on a voluntary basis (vide the Statement of Objects and Reasons). But the Select Committee recommends that " When a secured Creditor does not agree to a settlement such settlement shall not affect his right to proceed against such property. (vide Proviso to section 14(1))

If the above principle (as enunciated in Section 14 (1) proviso) is adopted in this Regulation, the very object of the Regulation will fail, because, every secured Creditor will not agree to the settlement, even though the debtor makes a fair offer, and such Creditors will directly proceed against the properties of the debtors and the chances are that the debtors will lose their property for a very low price.-

ఇదే విధంగా కొన్ని సంవత్సరాల క్రిందట సెంట్రల్ ప్రావిన్సెస్ (Central Provinces) లో ఋణాలకు సంబంధించిన ఒక బిల్లు ప్రవేశపెట్టడం జరిగింది. ఆ బిల్లు Debts Conciliation Bill అని పేరు. అందులో ఎక్కువ విధమైన ఋణాలు ఉండేవి. అంటే Secured Creditors అందులో ఒక విధం, Unsecured Creditors ఇంకొక విధం అంటే ఇద్దరికీ ఒకే విధమైన privilege లేకపోవడం వల్ల, ఆ విధంగా తీర్మానించడానికి వీల్లేకపోయింది. మన్నించాలి.-

4. 1. 37

A. Bhaskara Rao
Asst. Colonist & Regt

N. Venkata Rao.

S. H. Ramachandra Rao.

N. Bhavani Rao.

(Abdul Khadir)

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L. T. signature of Mogdum Hussain Saheb

ಎಲ್. ಟಿ. ಮೊಗ್ದುಂ ಹುಸೇನ್ ಸಾಹೇಬ್

Assistant Commissioner

Lakshmana Rao

ಸಹಾಯಕ ಕಮಿಷನರ್

Bhimpur

Nalgonda

R. Jagannadham

S. Nandula Sivachar

ಎಸ್. ನಂದುಲ ಶಿವಾಚಾರ್

T. Venkata Reddiar

ಟಿ. ವೆಂಕಟ ರೆಡ್ಡಿಯರ್

N. ಶ್ಯಾಮಣ್ಣ ಗೌಡ

N. Shamanna Gowda

B. N. Lakshmipathi

ಜೆ. ಎಸ್. ನಾಗಭೂಷಣ

J. Nanjundeshwara Patel ಚಿಕ್ಕಹಳ್ಳಿ

ಹೆಚ್. ಸಿ. ಮಲ್ಲಪ್ಪ

ಹೆಚ್. ಸಿ. ದಾಸಪ್ಪ

B. Hindu Rao

उपाध्यक्ष वेंकटरमणाचार्य

H. Lakshminarayana Jois

ಹೆಚ್. ಲಕ್ಷ್ಮೀನಾರಾಯಣ ಜೋಯಿಸ್

ಅಂಬಾಜಿ ರಾವ್

K. ಅಚ್ಯುತರಾವ್ ಕೇಶವರಾವ್ ಪಾಲ್ಕೆ

K. M. Rajulu

(sd). Abdul Gaffar.

ಅಬ್ದುಲ್ ಗಫ್ಫಾರ್

K. Adinarayana

V. ಶ್ರೀನಿವಾಸ ಅಯ್ಯಂಗಾರ್

S. Kama Sastry ಶಾಸ್ತ್ರಿ

M. Venkata Subbaiah

Bill to make provision for the setting up of Debt Conciliation Boards in Mysore to relieve agriculturists from indebtedness.

AMENDMENTS.

I. Section 1. Clause (f)(i).-

Omit the words following "agriculture" and beginning with"or who is a holder".

II. Section 14(i).-

For "more than 50 per cent" substitute "at least 75 per cent".

III. Section 18(2).

After the words "where the Deputy Commissioner fails" add the clause "within one year from the date of default".

IV. Section 19(i).

After the words "refuses to agree to an amicable settlement" add the words "to which creditors to whom at least 75 per cent of the total amount of the debtor's debts is owing" before "the Board shall".

V. For Section 23, substitute the following:--

23(a). From an order of the Board under Section 10, cl(3), or Section ~~11~~ 11 cl.(3) or Section 12 cl(2), an appeal shall lie to the Court of the Subordinate Judge within the limits of whose jurisdiction the Board is constituted.

23(b). The High Court may call for the records of any proceedings before the Board, and if the Board appears appears to have acted illegally or with material irregularity, the High Court may make any order in the proceeding as it thinks fit.

VI. Section 25.-

Omit the words "with the permission of the Board".

<u>Add the following provisions to the Bill.</u>

VII. The Board shall have power to deal with only those cases where all the debts owed by the debtor do not together exceed Rs. 2,500.

VIII. Where it appears to the Board to be just and proper, the Board may, on the application of any creditor, appoint a Receiver of the properties of the debtor.

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IX. A debtor who

(a) fraudulently conceals, destroys or purposely withholds the production of any book, paper or writing relating to the affairs which are the subject of proceedings before the Board, or

(b) has kept or has caused to be kept false books of account, or

(c) has wilfully altered or falsified or withheld entries from any book, writing or paper relating to the affairs which are the subject of proceedings before the Board, or

(d) has fraudulently made away with, or concealed any part of his property or has discharged or concealed any debt due to or from him, with intent to diminish the property to be available to his creditors or to give an undue preference to any of the said creditors,

shall be liable to be punished with imprisonment for a term which may extend up to six months or with a fine up to Rs. 500.

X. A creditor or any person claiming to be a creditor intentionally making any false claim, proof, declaration or statement of account, shall be liable to be punished with imprisonment up to six months or with fine up to Rs. 500.

MOVER: Mr. H. SIDDAIYA.

Amendments proposed to be moved in Legislative Council to the Debt Concilation Bill.

Notes.

2. (f) "debtor" means a person --
(i) who earns his livelihood mainly by agriculture [or who is a holder, whether he cultivates the land personally or otherwise;] and

(ii) whose debts exceed one hundred rupees.

The portion in square brackets is proposed to be omitted probably with the idea of confining the operation of the measure only to agriculturists who live mainly by agriculture. This was discussed in the Select Committee and it was decided by a majority that the clause might stand as it is. The clause follows the Madras Act. But in the C.P., Punjab and Bengal Acts the word "or" is not used, but "and" so that a holder has also to earn his livelihood by agriculture. In Madras the change was made by the Select Committee deliberately so as to include land-holders who may get the land cultivated. A similar amendment brought in Madras was lost.

Theoretically different provinces have defined the term debtor in different ways. ours is the most comprehensive the Punjab Act defines it elaborately

14. (1) If the creditors to whom more than 50 [at least 75] per cent of the total amount of the debtor's debts is owing come to an amicable settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement, if considered equitable by the board, shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement.

The amendment seeks to make the agreement of the ~~creditors to whom~~ creditors to whom at least 75 per cent of the debts is owing, necessary for a binding settlement. This will make the working of the Regulation difficult. In C.P. and Bengal the percentage is lower, being 40%. In the Punjab Act there is no such minimum fixed. 50 per cent was fixed in Madras in the Council as a fair percentage. The scheme is only to be work-

(1)

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ing any amount due in accordance with the terms of an agreement registered under sub-section (2) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within ninety days from the date of default.

(2) Where the Deputy Commissioner fails within one year from the date of default to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

It is not clear why time limit is proposed to be fixed for the issue of the certificate by the Deputy Commissioner. He is not likely to keep the decree unexecuted for a long time.

This clause follows the C.P.Act S.13 A similar provision is also found in the Bengal Act.

Grant of certificate by board in respect of certain debts.

19 (1) Where, during the hearing of any application made under Section 4, any creditor refuses to agree to an amicable settlement to which creditors to whom at least 75 per cent of the total amount of the debtors' debts is owing the Board, shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

The addition proposed seems to be unnecessary. Under S.14 it is only when creditors to whom more than 50 per cent of the debts is owing agree that the settlement is reduced to writing and the certificate is issued.

The board, in coming to a decision whether the officer made is fair or not, may take into consideration -

(i) the fall or rise in the value of land and its produce since the locality:

(ii) the amount of consideration actually received.

(iii) the reasonableness of the rates of interest;

(iv) the onerous conditions, if any, subject to which the loan was granted;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and

(vi) any other particulars which the board thinks it desirable to take into account.

[23. No appeal or application for revision all lie against any order passed by a board.]

V. For Section 23, substitute the following.-

23 (a). From an order of the Board under Section 10, cl (3), or Section 11 cl. (3) or Section 12 cl (2), an appeal shall lie to the Court of the Subordinate Judge within the limits of whose jurisdiction the Board is constituted.

23 (b). The High Court may call for the records of any proceedings before the Board, and if the Board appears to have acted illegally or with material irregularity, the High Court may make any order in the proceeding as it thinks fit.

The proposed amendment seeks to provide for an appeal to ~~subject~~ court and revision by High Court. The settlement is arrived at by mutual agreement and there is no likelihood of any illegality for being rectified on appeal. There is provision for review by the Board itself to rectify any irregularity. Appeal is not provided for in any of the British Indian Acts except in Bengal where provision is made for appeal to an Appellate Officer appointed by Government. The Boards are not amendable ~~with~~ to the jurisdiction of any Civil Court and the object of the Act is to take these Boards away from the control of

The Boards are not amenable to the jurisdiction of any civil Court and the object of the Act is to ~~take~~ keep the Boards not as Courts. The Boards are an advisory body to advise debtors & creditors to effect settlements amicably. There is no place for appeal or Revision when the

25. In any proceedings before a board, any party may appear in person or with the permission of the board by a legal practitioner or an agent authorised in writing.

principle of the Act when a claim is settled by mutual agreement. No question of appeal or revision can arise.

The portion in square brackets is proposed to be omitted. The effect of the amendment will be to allow legal practitioners or even agents or touts in all cases before the Board. It was in keeping with the simplified procedure aimed at in the Bill the clause has been drafted on the lines of the provision in the Madras Act. The point was considered in the Select Committee and it was considered best to keep the clause as it is.

Settled amicably, but in Bengal there is provision for appeal & Revision under Sec 40

Purely a voluntary agreement

✓

Add the following provisions to the Bill.

VII. The Board shall have power to deal with only those cases where all the debts owed by the debtor do not together exceed Rs. 2,500/-

The question of having a maximum for debts of a debtor coming under the Regulation was considered by the Select Committee and it was considered that the present provision need not be narrowed. In C.P.25,000 is fixed. In the Punjab Rs. 10,000; In Bengal provision is made in the rule making powers to fix a maximum.

VIII. Where it appears to the Board to be just and proper, the Board may, on the application of any creditor, appoint a Receiver of the properties of the debtor.

The necessity for the appointment of a receiver is not apparant. It will be unnecessarily taxing the debtor's estate.

IX. A debtor who

(a) fraudulently conceals, destroys or purposely with-holds the production of any book, paper or writing relating to the affairs which are the subject of proceedings before the Board, or

(b) has kept or has caused to be kept false books of account, or

(c) has wilfully altered or falsified or withheld entries from any book, writing or paper relating to the affairs which are the subject of proceedings before the Board, or

(d) has fraudulently made away with, or concealed any part of his property or has discharged or concealed any debt due to or from him with intent to diminish the property to be available to his creditors or to give an undue preference to any of the said creditors,

shall be liable to be punished with imprisonment for a term which may extend up to six months or with a fine up to Rs. 500/-

X. A creditor or any person claiming to be a creditor intentionally making any false claim, proof, declaration or statement of account, shall be liable to be punished with imprisonment up to six months or with fine up to Rs. 500.

The provisions seem to be unnecessary. Under Section 13 the Board has got all the powers of a Civil Court in regard to summoning witnesses or production of documents. Under Section 29 the members of a Board are public servants. Non attendance of a witness and omission to produce document before a public servant and giving false information are punishable by I.P.C. (Vide chapter X of I.P.C.)

C69

Both as finally passed

A Bill to make provision for the Setting up of Debt Conciliation Boards in Mysore to relieve Agriculturists from Indebtedness.

~~AS AMENDED BY THE SELECT COMMITTEE.~~

~~[Additions are indicated in italics and omissions enclosed in square brackets.]~~

Whereas it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors ; Preamble.

It is hereby enacted as follows :—

1. (1) This Regulation may be called the Mysore Debt Conciliation Regulation, 1937. Short title, extent and commencement.

(2) It extends to the whole of Mysore.

(3) It shall come into force in such areas and on such dates as the Government may, by notification in the Official Gazette, direct.

2. In this Regulation unless there is anything repugnant in the subject or context : Definition.

(*a*) the expressions " holder," " holding," " tenant " and " village " shall have the meaning assigned to them in the Mysore Land Revenue Code, 1888 ;

(*b*) " agriculture " includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of live-stock, poultry or bees, sericulture and the growing of fruits, vegetables and the like ;

(*c*) " Board " means a Debt Conciliation Board established under sub-section (1) of Section 3 ;

(*d*) " creditor " means a person to whom a debt is owing and includes a co-operative society ;

(*e*) " debt " includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, *and* whether mature or not, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, rent as defined in the Mysore

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Land Revenue Code, 1888, or any money for the recovery of which a suit is barred by limitation

(*f*) "debtor" means a person—

(i) who earns his livelihood mainly by agriculture or who is a holder, whether he cultivates the land personally or otherwise; and

(ii) whose debts exceed one hundred rupees.

(*g*) "prescribed" means prescribed by rules made under this Regulation;

(*h*) "secured debt" includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise;

(*i*) "secured creditor" means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

Establishment of Debt Conciliation Boards.

3. (1) The Government may establish a Debt Conciliation Board for any district or part of a district. Such board shall consist of a Chairman and two members, appointed by the Government, which may, for reasons to be recorded in writing, cancel any appointment or dissolve any Board.

(2) The Chairman and every member of a board so established shall be appointed for a term not exceeding three years. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

(3) A board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a board are unable to agree, the opinion of the majority shall prevail. Where the board is equally divided, the Chairman shall have a casting vote.

(5) When a board is dissolved or otherwise ceases to exist, the Government may, at any time establish another board for the area for which the former board was established and may declare the board newly established to be the successor in office of the board which has ceased to exist and such board shall exercise all the powers under the Regulation.

Application for settlement between debtor and his creditors.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area, to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make an application to a board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this Regulation, be transferred to and dealt with by one board as one single application.

Verification of application.

5. Every application to a board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying plaints.

Particulars to be stated in application.

6. (1) Every application made by a debtor to a board shall contain the following particulars, namely :—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he resides ;

(*c*) the amount and particulars of all claims against him together with the names and residences of his creditors and, in the case of a creditor who is a minor or a lunatic, the name of his guardian or the person in whose charge the property of such creditor is, so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him ; and

(*d*) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value thereof and of the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, *viz* :—

(*a*) the place where the debtor resides ; and

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(*b*) the amount and particulars of his claim against such debtor.

Rejection of application.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in Sections 5 and 6.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

Procedure on application.

8. (1) On receipt of an application under Section 4, the board shall unless it rejects the application under Section 7 pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of Section 6 and notice shall be sent to all the creditors specified by him.

Dismissal of application.

9. An application under Section 4 may be dismissed by the board at any stage of the proceeding:

(*a*) if, for reasons to be stated in writing the board does not consider it desirable or practicable to effect a settlement of debts; or

(*b*) if, in the opinion of the board, the applicant fails to pursue his application with due diligence;

Provided that, when such applicant is a creditor, the board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Regulation; or

(*c*) if the application includes a claim which, in the opinion of the board, is collusive and intended to defraud any creditor.

Notice calling upon creditors to submit statements of debts.

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying claims and

shall be submitted to the board within two months from the date of service or publication of the notice as the case may be ;

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) ~~[Subject to the provisions of sub-section (3)]~~ Every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

~~[(3)]~~ *Provided that* if a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement, the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section;

Provided *further* that a creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

Procedure on submission of statement of debts.

11. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of Section 10 shall furnish, along with such statement full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

(2) The board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1) the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt;

Provided that the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Power of board to decide dispute as to the existence or amount of debts or assets.

12. (1) The board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor, the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board ;

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

Power of board to require attendance of persons and production of documents.

13. (1) Subject to rules made under this Regulation, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1911.

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

14. (1) If the creditors to whom more than 50 per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement, if considered equitable by the board, shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement;

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies in Mysore.

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Provided further that when a secured creditor does not agree to the settlement, such settlement shall not affect his rights to proceed against the secured property.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Mysore Registration Regulation, 1903, by the Chairman of the board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court, and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of Section 88 of the Mysore Registration Regulation, 1903.

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the board or a civil court under sub-section ~~[(3)]~~ (2) of Section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled ; the application under Section 4 shall be deemed to have been received in the office of the board on the date of such revival ; and all the provisions of this Regulation shall apply in respect of the application accordingly.

Properties exempt from attachment not to be taken into account.

15. In any scheme of debt conciliation under this Regulation such properties as are exempt from attachment under the Code of Civil Procedure, 1911, shall not be taken into account and shall be left to the judgment debtor free from any liability for his debts.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Regulation, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal and if the debt was incurred before the first day of ~~—~~ twice the amount due on the said date.

Power of board to dismiss application.

17. If no amicable settlement is arrived at under sub-section (1) of Section 14 within 12 months from the date of the application under Section 4, the board shall dismiss the application.

Recovery of sums due under agreement.

18. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within ninety days from the date of default.

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

Grant of certificate by board in respect of certain debts.

19. (1) Where, during the hearing of any application made under Section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

The board, in coming to a decision whether the offer made is fair or not, may take into consideration—

(i) the fall or rise in the value of land and its produce, in the locality;

(ii) the amount of consideration actually received;

(iii) the reasonableness of the rates of interest;

(iv) the onerous conditions, if any, subject to which the loan was granted;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and

(vi) any other particulars which the board thinks it desirable to take into account.

Power of court to disallow cost or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 6 per cent per annum on the principal amount due on the date of such certificate.

Decrees in suits after registration of agreement not to be executed.

(3) Where after the registration of an agreement under sub-section (2) of Section 14, any unsecured creditor sues for the recovery of a debt (other than a debt incurred subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit

shall, notwithstanding anything contained in the Code of Civil Procedure, 1911, not be executed as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

Bar of Civil Suits.

20. No civil court shall entertain—

(*a*) any suit in respect of

(i) any matter pending before a board; or

(ii) the validity of any procedure or the legality of any agreement made under this Regulation; or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-Section (2) of Section 14 from any person who, as a debtor, was party to such agreement whether such agreement is subsisting or not; or

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of Section 10 except a debt which is revived under sub-section (3) of that section.

(*b*) any application to execute a decree the execution of which is suspended under sub-section (3) of section 19.

Avoidance of certain transfers of debtor's property.

21. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a board under Section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Alienation made with sanction of board not to be considered as a fraudulent preference.

22. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the agreement mentioned in Section 14 shall not be considered as a fraudulent preference under the Mysore Insolvency Regulation, 1925, nor shall such alienation be voidable under Section 53 of the Transfer of Property Regulation, 1918.

Bar of appeal or revision.

23. No appeal or application for revision shall lie against any order passed by a board.

Power of board to review its order.

24. A board may, on the application from any person interested made within ninety days of the passing of an

order, review any order passed by it and pass such order in reference thereto as it thinks fit.

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before board by agent or by legal practitioner.

25. In any proceedings before a board, any party may appear in person or with the permission of the board by a legal practitioner or an agent authorised in writing.

Suspension of pending application or suit.

26. When an application has been made to a board under Section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the board has dismissed the application.

Submission of reports by boards regarding sums due to Government.

27. Where in the course of an inquiry into an application made under Section 4 a board finds that there is any sum owing to Government on account of loans advanced under the Land Improvement Loans Regulation, 1890 or otherwise, the board shall report this fact through the Deputy Commissioner to the Revenue Commissioner in Mysore.

Computation of period of limitation for suits and proceedings.

28. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Regulation the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.

(2) The period during which proceedings under this Regulation have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under Section 48 of the Code of Civil Procedure, 1911, or under the Mysore Limitation Regulation, 1911.

Members of board deemed to be public servants.

29. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code as in force in Mysore.

Power to make rules.

30. In addition to any power specially conferred by this Regulation, the Government may make rules *not inconsistent with this Regulation*—

(*a*) prescribing the quorum for, and regulating the procedure before a board;

(*b*) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of Section 10;

(*c*) prescribing the charges to be made by a board for anything done under this Regulation and the persons by whom and the manner in which such charges shall be paid;

(*d*) prescribing the records to be kept and the returns to be made by a board;

(*e*) prescribing the allowances, if any, to be paid to the Chairman and members of a board;

(*f*) regulating the power of a board to summon parties and witnesses under Section 13 and the grant of expenses to witnesses;

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of Section 14;

(*h*) prescribing the form of certificate to be granted under sub-section (2) of Section 18 or sub-section (1) of Section 19; and

(*i*) generally, for the purpose of carrying into effect the provisions of this Regulation.

General provisions regarding rules.

31. [(1) All rules for which provision is made in this Regulation shall be made by Government and shall be consistent with this Regulation.]

(1) [(2)] All rules *made by Government under Section 30* shall be subject to the condition of previous publication.

(2) [(3)] In making any rule, Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day [after the first] during which the breach [has been persisted in] *continues after the first breach.*

WD 1026—GPB—250—3-12-36

Bill as finally passed 100

A Bill to make provision for the Setting up of Debt Conciliation Boards in Mysore to relieve Agriculturists from Indebtedness.

~~AS AMENDED BY THE SELECT COMMITTEE.~~

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(*b*) "agriculture" includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of live-stock, poultry or bees, sericulture and the growing of fruits, vegetables and the like;

(*c*) "Board" means a Debt Conciliation Board established under sub-section (1) of Section 3;

(*d*) "creditor" means a person to whom a debt is owing and includes a co-operative society;

(*e*) "debt" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, *and* whether mature or not, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, rent as defined in the Mysore

Land Revenue Code, 1888, or any money for the recovery of which a suit is barred by limitation;

(*f*) "debtor" means a person—

(i) who earns his livelihood mainly, by agriculture or who is a holder, whether he cultivates the land personally or otherwise; and

(ii) whose debts exceed one hundred rupees.

(*g*) "prescribed" means prescribed by rules made under this Regulation;

(*h*) "secured debt" includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise;

(*i*) "secured creditor" means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

Establishment of Debt Conciliation Boards.

3. (1) The Government may establish a Debt Conciliation Board for any district or part of a district. Such board shall consist of a Chairman and two members appointed by the Government, which may, for reasons to be recorded in writing, cancel any appointment or dissolve any Board.

(2) The Chairman and every member of a board so established shall be appointed for a term not exceeding three years. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

(3) A board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a board are unable to agree, the opinion of the majority shall prevail. Where the board is equally divided, the Chairman shall have a casting vote.

(5) When a board is dissolved or otherwise ceases to exist, the Government may, at any time establish another board for the area for which the former board was established and may declare the board newly established to be the successor in office of the board which has ceased to exist and such board shall exercise all the powers under the Regulation.

Application for settlement between debtor and his creditors.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area, to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make an application to a board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this Regulation, be transferred to and dealt with by one board as one single application.

Verification of application.

5. Every application to a board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying plaints.

Particulars to be stated in application.

6. (1) Every application made by a debtor to a board shall contain the following particulars, namely :—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he resides ;

(*c*) the amount and particulars of all claims against him together with the names and residences of his creditors and, in the case of a creditor who is a minor or a lunatic, the name of his guardian or the person in whose charge the property of such creditor is, so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him ; and

(*d*) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value thereof and of the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, *viz* :—

(*a*) the place where the debtor resides ; and

(*b*) the amount and particulars of his claim against such debtor.

Rejection of application.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in Sections 5 and 6.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

Procedure on application.

8. (1) On receipt of an application under Section 4, the board shall unless it rejects the application under Section 7 pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of Section 6 and notice shall be sent to all the creditors specified by him.

Dismissal of application.

9. An application under Section 4 may be dismissed by the board at any stage of the proceeding

(*a*) if, for reasons to be stated in writing the board does not consider it desirable or practicable to effect a settlement of debts; or

(*b*) if, in the opinion of the board, the applicant fails to pursue his application with due diligence;

Provided that, when such applicant is a creditor, the board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Regulation; or

(*c*) if the application includes a claim which, in the opinion of the board, is collusive and intended to defraud any creditor.

Notice calling upon creditors to submit statements of debts.

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying claims and

shall be submitted to the board within two months from the date of service or publication of the notice as the case may be ;

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) ~~[Subject to the provisions of sub-section (3)]~~ Every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

~~[(3)]~~ *Provided that* if a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement, the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section;

Provided *further* that a creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

Procedure on submission of statement of debts.

11. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of Section 10 shall furnish, along with such statement full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

(2) The board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1) the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt;

Provided that the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Power of board to decide dispute as to the existence or amount of debts or assets.

12. (1) The board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor, the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board;

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

Power of board to require attendance of persons and production of documents.

13. (1) Subject to rules made under this Regulation, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1911.

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

14. (1) If the creditors to whom more than 50 per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement, if considered equitable by the board, shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement;

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies in Mysore.

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Provided further that when a secured creditor does not agree to the settlement, such settlement shall not affect his rights to proceed against the secured property.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Mysore Registration Regulation, 1903, by the Chairman of the board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court, and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of Section 88 of the Mysore Registration Regulation, 1903.

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the board or a civil court under sub-section ~~[(3)]~~ (2) of Section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled ; the application under Section 4 shall be deemed to have been received in the office of the board on the date of such revival ; and all the provisions of this Regulation shall apply in respect of the application accordingly.

Properties exempt from attachment not to be taken into account.

15. In any scheme of debt conciliation under this Regulation such properties as are exempt from attachment under the Code of Civil Procedure, 1911, shall not be taken into account and shall be left to the judgment debtor free from any liability for his debts.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Regulation, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal and if the debt was incurred before the first day of ~~July~~ June 1935 twice the amount due on the said date.

Power of board to dismiss application.

17. If no amicable settlement is arrived at under sub-section (1) of Section 14 within 12 months from the date of the application under Section 4, the board shall dismiss the application.

Recovery of sums due under agreement.

18. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of Section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within ninety days from the date of default.

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

Grant of certificate by board in respect of certain debts.

19. (1) Where, during the hearing of any application made under Section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

The board, in coming to a decision whether the offer made is fair or not, may take into consideration—

(i) the fall or rise in the value of land and its produce, in the locality;

(ii) the amount of consideration actually received;

(iii) the reasonableness of the rates of interest;

(iv) the onerous conditions, if any, subject to which the loan was granted;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and

(vi) any other particulars which the board thinks it desirable to take into account.

Power of court to disallow cost or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 6 per cent per annum on the principal amount due on the date of such certificate

Decrees in suits after registration of agreement not to be executed.

(3) Where after the registration of an agreement under sub-section (2) of Section 14, any unsecured creditor sues for the recovery of a debt (other than a debt incurred subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit

shall, notwithstanding anything contained in the Code of Civil Procedure, 1911, not be executed as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

Bar of Civil Suits.

20. No civil court shall entertain—

(*a*) any suit in respect of

(i) any matter pending before a board; or

(ii) the validity of any procedure or the legality of any agreement made under this Regulation; or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-Section (2) of Section 14 from any person who, as a debtor, was party to such agreement whether such agreement is subsisting or not; or

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of Section 10 except a debt which is revived under sub-section (3) of that section.

(*b*) any application to execute a decree the execution of which is suspended under sub-section (3) of section 19.

Avoidance of certain transfers of debtor's property.

21. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a board under Section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Alienation made with sanction of board not to be considered as a fraudulent preference.

22. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the agreement mentioned in Section 14 shall not be considered as a fraudulent preference under the Mysore Insolvency Regulation, 1925, nor shall such alienation be voidable under Section 53 of the Transfer of Property Regulation, 1918.

Bar of appeal or revision.

23. No appeal or application for revision shall lie against any order passed by a board.

Power of board to review its order.

24. A board may, on the application from any person interested made within ninety days of the passing of an

order, review any order passed by it and pass such order in reference thereto as it thinks fit.

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before board by agent or by legal practitioner.

25. In any proceedings before a board, any party may appear in person or with the permission of the board by a legal practitioner or an agent authorised in writing.

Suspension of pending application or suit.

26. When an application has been made to a board under Section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the board has dismissed the application.

Submission of reports by boards regarding sums due to Government.

27. Where in the course of an inquiry into an application made under Section 4 a board finds that there is any sum owing to Government on account of loans advanced under the Land Improvement Loans Regulation, 1890 or otherwise, the board shall report this fact through the Deputy Commissioner to the Revenue Commissioner in Mysore.

Computation of period of limitation for suits and proceedings.

28. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Regulation the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.

(2) The period during which proceedings under this Regulation have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under Section 48 of the Code of Civil Procedure, 1911, or under the Mysore Limitation Regulation, 1911.

Members of board deemed to be public servants.

29. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code as in force in Mysore.

Power to make rules.

30. In addition to any power specially conferred by this Regulation, the Government may make rules *not inconsistent with this Regulation*—

(*a*) prescribing the quorum for, and regulating the procedure before a board;

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(*b*) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of Section 10;

(*c*) prescribing the charges to be made by a board for anything done under this Regulation and the persons by whom and the manner in which such charges shall be paid;

(*d*) prescribing the records to be kept and the returns to be made by a board;

(*e*) prescribing the allowances, if any, to be paid to the Chairman and members of a board;

(*f*) regulating the power of a board to summon parties and witnesses under Section 13 and the grant of expenses to witnesses;

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of Section 14;

(*h*) prescribing the form of certificate to be granted under sub-section (2) of Section 18 or sub-section (1) of Section 19; and

(*i*) generally, for the purpose of carrying into effect the provisions of this Regulation.

General provisions regarding rules.

31. ~~[(1)~~ All rules for which provision is made in this Regulation shall ~~be made by Government and shall be~~ consistent with this Regulation.~~]~~

(*1*) ~~[(2)]~~ All rules *made by Government under Section 30* shall be subject to the condition of previous publication.

(*2*) ~~[(3)]~~ In making any rule, Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day ~~[after the first]~~ during which the breach ~~[has been persisted in]~~ *continues after the first breach.*

WD 1026—GPB—250—3-12-36

G. R. S. VI.—S-III/14]

DRAFT.

SUBJECT.....

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.....

Section. Legis
File No. 37-36
Serial No. 1

Proceedings of the Government of H. H. the Maharaja of Mysore.

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT,

( )

, *the*.....*191*

Date of issue.....15-2-37.....

Signed by....ms. A. Sundaramiah Rev.

Order No...P.L.9866.

Ordered that the accompanying...Regulation to make provision for the setting up of Debt Conciliation Boards in Mysore to relieve agriculturists from indebtedness which received the assent of His Highness the Maharaja, on the...fourth... day of...February... 1937, be published as Regulation No...VI... of 1937, in the *Mysore Gazette* for general information.

15-2

for *Secretary to Government.*

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

To

The Compiler, *Mysore Gazette*, for publication in Part ~~III~~ IV of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada as per standing order ~~to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore~~. Proofs should be sent to this office for approval before publication.

Copy to Translation

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Proceedings of the Government of His Highness

the Maharaja of Mysore.

- - -

Order No. P 4986 Legis 37-36-1

Dated Bangalore, 15th February 1937.

Ordered that the accompanying Regulation to make provision for the setting up of Debt Conciliation Boards in Mysore to relie Agriculturists from indebtedness which received the assent of His Highness the Maharaja, on the fourth day of February 1937, be published as Regulation No.VI of 15-2 of 1937, in the Mysore Gazette for general information.

for General Secretary to Governm

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada as per standin orders. Proofs should be sent to this office for approval before publication.

REGULATION No. VI OF 1937.

(Received the assent of His Highness the Maharaja on the fourth day of February 1937.)

A Regulation to make provision for the setting up of Debt Conciliation Boards in Mysore to relieve Agriculturists from Indebtedness.

Price : 0-1-0.

NOTIFICATION.

Order No. P. 4986—Legis. 37-36-1, dated Bangalore, 15th February 1937.

Ordered that the accompanying Regulation to make provision for the setting up of Debt Conciliation Boards in Mysore to relieve Agriculturists from indebtedness, which received the assent of His Highness the Maharaja, on the fourth day of February 1937, be published as Regulation No. VI of 1937, in the *Mysore Gazette* for general information.

M. VENKATESA IYENGAR,
Secretary to Government,
General Department.

REGULATION No. VI OF 1937.

(*Received the assent of His Highness the Maharaja on the Fourth day of February 1937*).

A Regulation to make provision for the Setting up of Debt Conciliation Boards in Mysore to relieve Agriculturists from Indebtedness.

Whereas it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors; It is hereby enacted as follows:— Preamble.

1. (1) This Regulation may be called the Mysore Debt Conciliation Regulation, 1937. Short title, extent and commencement.

(2) It extends to the whole of Mysore.

(3) It shall come into force in such areas and on such dates as the Government may, by notification in the official Gazette, direct.

2. In this Regulation unless there is anything repugnant in the subject or context: Definitions.

(*a*) the expressions "holder," "holding," "tenant" and "village" shall have the meaning assigned to them in the Mysore Land Revenue Code, 1888;

(*b*) "agriculture" includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of live stock, poultry or bees, sericulture and the growing of fruits, vegetables and the like;

(*c*) "board" means a Debt Conciliation Board established under sub-section (1) of Section 3;

(*d*) "creditor" means a person to whom a debt is owing and includes a co-operative society;

(*e*) "debt" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, and whether mature or not, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, rent as defined in the Mysore Land Revenue Code, 1888, or any money for the recovery of which a suit is barred by limitation;

(*f*) "debtor" means a person—

(i) who earns his livelihood mainly by agriculture or who is a holder, whether he cultivates the land personally or otherwise; and

(ii) whose debts exceed one hundred rupees.

(*g*) "prescribed" means prescribed by rules made under this Regulation;

(*h*) "secured debt" includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise;

(*i*) "secured creditor" means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

Establishment of Debt Conciliation Boards.

3. (1) The Government may establish a Debt Conciliation Board for any district or part of a district. Such board shall consist of a Chairman and two members appointed by the Government which may, for reasons to be recorded in writing, cancel any appointment or dissolve any board.

(2) The Chairman and every member of a board so established shall be appointed for a term not exceeding three years. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a futher term not exceeding three years.

(3) A board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a board are unable to agree, the opinion of the majority shall prevail. Where the board is equally divided, the Chairman shall have a casting vote.

(5) When a board is dissolved or otherwise ceases to exist, the Government may, at any time establish another board for the area for which the former board was established and may declare the board newly established to be the successor in office of the board which has ceased to exist and such board shall exercise all the powers under the Regulation.

Application for settlement between debtor and his creditors.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area, to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make an application to a board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this Regulation, be transferred to and dealt with by one board as one single application.

Verification of application.

5. Every application to a board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying plaints.

Particulars to be stated in application.

6. (1) Every application made by a debtor to a board shall contain the following particulars, namely:—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he resides;

(*c*) the amount and particulars of all claims against him together with the names and residences of his creditors and, in the case of a creditor who is a minor or a lunatic, the name of his guardian or the person in whose charge the property of such creditor is, so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him; and

(*d*) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value

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thereof and of the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, namely:—

(*a*) the place where the debtor resides; and

(*b*) the amount and particulars of his claim against such debtor.

Rejection of application.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in sections 5 and 6.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

Procedure on application.

8. (1) On receipt of an application under section 4, the board shall unless it rejects the application under section 7 pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of section 6 and notice shall be sent to all the creditors specified by him.

Dismissal of application.

9. An application under section 4 may be dismissed by the board at any stage of the proceedings:

(*a*) if, for reasons to be stated in writing, the board does not consider it desirable or practicable to effect a settlement of debts; or

(*b*) if, in the opinion of the board, the applicant fails to pursue his application with due diligence.

Provided that, when such applicant is a creditor, the board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Regulation; or

(*c*) if the application includes a claim which, in the opinion of the board, is collusive and intended to defraud any creditor.

Notice calling upon creditors to submit statements of debts.

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed,

calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying claims and shall be submitted to the board within two months from the date of service or publication of the notice as the case may be:

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extent the period for the submission of his statement of the debt owed to him.

(2) Every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged:

Provided that, if a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement, the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section:

Provided further, that a creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

Procedure on submission of statement of debts.

11. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 10 shall furnish, along with such statement full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

(2) The board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit

brought by the creditor or by any person claiming under him for the recovery of the debt.

Provided that, the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Power of board to decide dispute as to the existence or amount of assets.

12. (1) The board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor, the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board:

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

Power of board to require attendance of persons and production of documents.

13. (1) Subject to rules made under this Regulation, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1911.

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

14. (1) If the creditors to whom more than 50 per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which, they are to be paid. Such agreement, if considered equitable by the board, shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement.

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies in Mysore:

Provided further that when a secured creditor does not agree to the settlement, such settlement shall not affect his rights to proceed against the secured property.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Mysore Registration Regulation, 1903, by the chairman of the board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court, and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the chairman of the board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of section 88 of the Mysore Registration Regulation, 1903.

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the board or a civil court under sub-section (2) of section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled; the application under section 4 shall be deemed to have been received in the office of the board on the date of such revival; and all the provisions of the Regulation shall apply in respect of the application accordingly.

Properties exempt from attachment not to be taken into account.

15. In any scheme of debt conciliation under this Regulation such properties as are exempt from attachment under the Code of Civil Procedure, 1911, shall not be taken into account and shall be left to the judgment-debtor free from any liability for his debts.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Regulation, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal and if the debt was incurred before the first day of June 1935 twice the amount due on the said date.

Power of board to dismiss application.

17. If no amicable settlement is arrived at under sub-section (1) of section 14 within 12 months from the date of the application under section 4, the board shall dismiss the application.

Recovery of sums due under agreement.

18. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within ninety days from the date of default.

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

Grant of certificate by board in respect of certain debts.

19. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

The board, in coming to a decision whether the offer made is fair or not, may take into consideration—

(i) the fall or rise in the value of land and its produce, in the locality ;

(ii) the amount of consideration actually received ;

(iii) the reasonableness of the rates of interest ;

(iv) the onerous condition, if any, subject to which the loan was granted ;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were ; and

(vi) any other particulars which the board thinks it desirable to take into account

Power of court to disallow cost or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 6 per cent per annum on the principal amount due on the date of such certificate

Decrees in suit after registration of agreement not to be executed.

(3) Where after the registration of an agreement under sub-section (2) of section 14, any unsecured creditor sues for the recovery of a debt (other than a debt incurred subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1), or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit

shall, notwithstanding anything contained in the Code of Civil Procedure, 1911, not be executed as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

Bar of Civil Suits.

20. No civil court shall entertain—

(*a*) any suit in respect of—

(i) any matter pending before a board ; or

(ii) the validity of any procedure or the legality of any agreement made under this Regulation ; or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 14 from any person who, as a debt or, was party to such agreement whether such agreement is subsisting or not ; or

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of Section 10 except a debt which is revived under the proviso to that sub-section ;

(*b*) any application to execute a decree the execution of which is suspended under sub-section (3) of section 19.

Avoidance of certain transfers of debtor's property.

21. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Alienation made with sanction of board not to be considered as a fraudulent preference.

22. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the agreement mentioned in section 14 shall not be considered as a fraudulent preference under the Mysore Insolvency Regulation, 1925, nor shall such alienation be voidable under section 53 of the Transfer of Property Regulation, 1918.

Bar of appeal or revision.

23. No appeal or application for revision shall lie against any order passed by a board.

Power of board to review its order.

24. A board may, on the application from any person interested made within ninety days of the passing of an order, review any order passed by it and pass such order in reference thereto as it thinks fit.

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Provided that, no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before board by agent or by legal practitioner.

25. In any proceedings before a board, any party may appear in person or by an agent authorized in writing or, with the permission of the board, by a legal practitioner.

Suspension of pending application or suit.

26. When an application has been made to a board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the board has dismissed the application.

Submission of reports by boards regarding sums due to Government.

27. Where in the course of an inquiry into an application made under section 4 a board finds that there is any sum owing to Government on account of loans advanced under the Land Improvement Loans Regulation, 1890 or otherwise, the board shall report this fact through the Deputy Commissioner to the Revenue Commissioner in Mysore.

Computation of period of limitation for suits and proceedings.

28. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Regulation, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.

(2) The period during which proceedings under this Regulation have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under section 48 of the Code of Civil Procedure, 1911. or under the Mysore Limitation Regulation, 1911.

Members of board deemed to be public servants.

29. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code as in force in Mysore.

Power to make rules.

30. In addition to any power specially conferred by this Regulation, the Government may make rules not inconsistent with this Regulation—

(*a*) prescribing the quorum for, and regulating the procedure before a board;

(*b*) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 10;

(*c*) prescribing the charges to be made by a board for anything done under this Regulation and the persons by whom and the manner in which such charges shall be paid;

(*d*) prescribing the records to be kept and the returns to be made by a board;

(*e*) prescribing the allowances, if any, to be paid to the chairman and members of a board;

(*f*) regulating the power of a board to summon parties and witnesses under section 13 and the grant of expenses to witnesses;

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 14;

(*h*) prescribing the form of certificate to be granted under sub-section (2) of section 18 or sub-section (1) of section 19; and

(*i*) generally, for the purpose of carrying into effect the provisions of this Regulation.

General provisions regarding rules.

31. (1) All rules made by Government under section 30 shall be subject to the condition of previous publication.

(2) In making any rule, Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day during which the breach continues after the first breach.

MIRZA M. ISMAIL,
Dewan.

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